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THE FELLOWS AND ASSOCIATES  
OF THE  
PONTIFICAL INSTITUTE OF MEDIAEVAL STUDIES  
DEDICATE  
THIS VOLUME  
TO THE MEMORY OF  
WALTER HENRY PRINCIPE, C.S.B.  
AND  
JOHN FRANCIS QUINN, C.S.B

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## WALTER HENRY PRINCIPE, C.S.B. (1922–1996)

*James K. Farge, C.S.B.*

WALTER Principe, C.S.B., Senior Fellow Emeritus of the Institute, died on 8 May 1996 from complications following cardiac surgery in Houston, Texas, where he had retired in 1994. As teacher, administrator, and researcher, Father Principe had achieved prominence both in the history of medieval theology and in contemporary theological circles.

Born in 1922 in Rochester, New York, Walter Principe entered the Basilian Fathers in 1940 and was ordained a priest in 1949. As an undergraduate at the University of Toronto, he achieved “first-class honours” in political science and economics, but his superiors appointed him to study theology in its medieval context. In 1951 he received an M.A. in Philosophy at the University of Toronto, and in 1952 he took the Licence in Mediaeval Studies, *summa cum laude*, at the Pontifical Institute of Mediaeval Studies, defending a thesis on “Gerson’s Attitude Towards the Occult Sciences.” He studied at the École pratique des hautes études of the University of Paris in 1951–53 and presented a thesis there for the Diploma in the Section des Sciences religieuses entitled “La question ‘Utrum Pater et Filius diligant se Spiritu Sancto’ de Pierre Lombard à S. Thomas d’Aquin.” His years in Paris acquainted him with the work of Marie-Dominique Chenu, Henri de Lubac, and Yves Congar, who remained models for him in both professional and personal ways. From 1956 to 1962 he continued research in European libraries in the field of thirteenth-century Christology, and he was awarded the Doctorate in Mediaeval Studies (M.S.D.) of the Pontifical Institute in 1964 after defending his thesis, “The Theology of the Hypostatic Union in the Early Thirteenth Century: The Doctrines of William of Auxerre, Alexander of Hales, Hugh of Saint-Cher, and Philip the Chancellor.” With further research, he transformed this thesis into the four magisterial monographs published by the Pontifical Institute of Mediaeval Studies between 1963 and 1975.

For nearly thirty years Walter Principe lectured, led graduate seminars, and directed graduate students at the Pontifical Institute of Mediaeval Studies, where he was a Senior Fellow from 1964, at the Faculty of Theol-

ogy of the University of St. Michael's College, and at the University of Toronto's Centre for Medieval Studies and Centre for the Study of Religion. His teaching included the history of patristic and medieval theology and biblical exegesis, especially subjects dealing with Christology and with the Holy Spirit according to Thomas Aquinas and his contemporaries, and the history of medieval spirituality, especially the theological spirituality of Bonaventure and of Thomas Aquinas. He directed the doctoral theses of thirteen students, the licentiate theses of eight others, and the Master's theses of still thirteen others. In addition to the papers he presented at learned conferences, he was invited to give lectures at twenty universities in North America and abroad, including Jerusalem, Tokyo, and Beijing.

Walter Principe was called upon to undertake numerous administrative duties. He was the first Dean of Theology of St. Michael's (1955–65). During this tenure he saw the creation of a full-fledged Faculty of Theology as well as the graduate Institute of Christian Thought. He was the first president of the Canadian Corporation for Studies in Religion, and he frequently held executive positions on boards of the Institute of Christian Thought, the Committee on Learned Societies of the Humanities Research Council of Canada (now the Canadian Federation for the Humanities), the Humanities Research Council of Canada, the Toronto School of Theology, and the Graduate Centre for Religious Studies at the University of Toronto. He was called upon to assess the programmes and facilitate review processes at several theological schools and university departments of theology.

As a priest-theologian, Father Principe served the Church in numerous capacities. He was chair of the Canadian Religious Conference's Committee on Vocations (1964–66) and was a consultant for the Canadian Conference of Catholic Bishops' Committee on Changes in Canadian Federal Legislation concerning Birth Control Information, Divorce, and Abortion (1966). He was a member of the Toronto Archdiocesan Pastoral Council (1965–66) and worked with the Episcopal Committee on Theology of the Canadian Catholic Bishops' Conference in helping prepare its pastoral reflection, *Jesus Christ, Centre of the Christian Life* (Ottawa, 1981). He helped the Toronto Archdiocesan Committee prepare an Anglican-Roman Catholic clergy seminar to review the ARCIC documents. From 1980 to 1985 he was a member of the International Theological Commission, with annual meetings at the Vatican. At that time, the Canadian Catholic Bishops' Conference appointed him to an international committee in Rome to prepare a statement for the World Council of Churches' Assembly in Vancouver, June 1982. Gerald Emmett Cardinal

Carter assigned him to prepare a document concerning the Church since the Second Vatican Council, in preparation for the Roman Synod of 1985. He likewise served on a joint committee of the Catholic Biblical Society of America, the Canadian Theological Society, and the Catholic Theological Society of America on the issue of academic freedom and ecclesial responsibilities of theologians (1986–88). The Canadian Conference of Catholic Bishops appointed him as an official member of the United Church of Canada-Roman Catholic dialogue for a three-year term (1987–90). He prepared a document for the Canadian Conference of Catholic Bishops on the theological status of episcopal conferences (1987).

Walter Principe was selected as one of sixteen theologians of many faiths and cultures invited for ecumenical discussion on the theme, “Confessing Christ for the sake of the mission of the Church in North America today,” sponsored by the Institute for Ecumenical and Cultural Research, Collegeville, Minnesota (5–11 June 1987 and 25 June–1 July 1988). He was a consultant to the Canadian Conference of Catholic Bishops for evaluation of a document from the Vatican Congregation for Bishops entitled “Theological and Juridical Status of Episcopal Conferences” (April 1988). The Bishops’ Committee for Ecumenical and Interreligious Affairs, National Conference of Catholic Bishops of the United States, appointed him to a five-year term as an official member of the U.S. Lutheran-Roman Catholic Dialogue (1988–93). He was appointed by the Theological Committee of the Canadian Conference of Catholic Bishops to a task force to study relations between bishops and theologians (1989–91). In September 1989 the Executive of the Catholic Theological Society of North America appointed him to a committee to study the document on the Profession of Faith and Oath of Fidelity promulgated by the Vatican Congregation for the Doctrine of Faith (January 1989), and he helped write the report on this, published in April 1990.

The Royal Society of Canada elected Walter Principe to its Academy of Humanities and Social Sciences in 1984. In June 1987, he was elected an Honorary Member of the Canadian Theological Society. The Catholic Theological Society of America awarded him the John Courtney Murray medal “in recognition of outstanding and distinguished achievement in theology” (1987), and elected him Vice-President (1988–89), President-elect (1989–90), and President of the Society (1990–91).

Amidst these duties of teaching, direction, and administration, Father Principe maintained a demanding level of scholarly research that was recognized and facilitated by a number of scholarly associations. A John B. Guggenheim Fellowship in 1967 allowed research on the influence of

Aristotelian and Arabic thought on the changing patterns of medieval thought in western Europe, a project he carried out in libraries of Assisi, Florence, Bruges, Brussels, Harvard University, London, Milan, Oxford, Padua, Paris, and Vatican City. A Canada Council Research Grant and Canada Council Leave Fellowship in 1975 promoted his research on the interaction of philosophy and theology in the use by thirteenth-century masters of new philosophical concepts within Christology. This research took him back to many of the same research centres as well as to Trier and Prague. A grant from the Association of Theological Schools in the United States and Canada (1978) and later (1988) the Humanities and Social Sciences Committee, University of Toronto, facilitated research on “Christological questions of the first half of the thirteenth century: Edition and commentary,” which produced a series of six textual editions published in the Institute’s journal, *Mediaeval Studies*. In 1982–83 the Social Sciences and Humanities Research Council of Canada Leave Fellowship supported research on “The theological spirituality of Thomas Aquinas.” At the time of his death, Father Principe had all but finished an edition of the Quodlibetal questions of the thirteenth-century theologian Guerric of Saint-Quentin and had begun writing a history of Christologies of the twelfth and thirteenth centuries. This latter project was supported by a research grant from the Social Sciences and Humanities Research Council of Canada.

Walter Principe’s unflagging enthusiasm to advance the history of medieval theology and to address contemporary theological issues produced the extensive record of books, chapters, and articles listed below. His breadth of knowledge and unassuming personality influenced a wide range of students and others who, with his colleagues in Toronto, now mourn their loss.

*Requiescat in pace.*

## BIBLIOGRAPHY

The Bibliography is divided under the following headings:

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## JOHN FRANCIS QUINN, C.S.B. (1925–1996)

*Ambrose Raftis*

JOHN Francis Quinn, first appointed in 1966 and Senior Fellow of the Pontifical Institute of Mediaeval Studies from 1972, died on 20 May 1996, after a long struggle with a failing heart. Following his early education at his birthplace, Dublin, Ireland, John Quinn entered the Irish Civil Service in 1939, served with the Irish Defence Forces during 1943–45, and served with the British Commonwealth Occupation Forces in Japan from 1945 to 1948. He then came to Canada where he completed his secondary and undergraduate academic programs. By now John Quinn was closely associating his academic career with his spiritual development and applied for admission to the Congregation of St. Basil where he made his religious profession in 1952. A gifted student, his academic life quickly blossomed with B.A., M.A., and S.T.B. degrees by 1960, the Licentiate in Mediaeval Studies (the Pontifical Institute of Mediaeval Studies) in 1964, and Ph.D. (University of Toronto) in 1966. In 1966 John Quinn was ordained to the priesthood.

Father John Quinn brought to the service of the Pontifical Institute a remarkable talent for the organization of administrative detail during the term of his appointment as Secretary from 1972 to the end of the decade. This was the formative period for implementing the complex coordination of the programs of the Center for Medieval Studies of the University of Toronto and the Pontifical Institute of Mediaeval Studies. The Center and Institute required a vital living expression of their operation in order to maintain their position in an old established university dominated by various independent departments. A living record of how Quinn answered to this situation may be found in his four volumed collection entitled *Handbook of the Council*. In these volumes every decision of the Council, the governing body of the Pontifical Institute, was made available for the period from its inception in 1936 to 1977. By incorporating the full scope of council activities as well as the relevant discussions, these volumes became the record of the living customs and traditions of the Institute. From that time, every President of the Pontifical Institute has attested to the invaluable use of the *Handbook* that was made easily useable by the

organization of the contents under every activity heading. His control of so much material also ensured that John Quinn should be a central figure of the Committee reviewing the Statutes of the Pontifical Institute over this ever-changing period of its history.

Over the 1970s Father Quinn was also actively engaged in more external organizations of which not the least were the editorial boards of the publications commemorating the Seventh Centenary of the deaths of St. Bonaventure (five volumes) and St. Thomas (two volumes). His membership in learned societies at this time included the International Society for the Study of Medieval Philosophy, The International Society for Franciscan Studies, the American Catholic Historical Association, and the North American Patristics Society.

John Francis Quinn's academic contributions formed a happy synthesis with his spiritual orientation. A member of the Third Order of St. Francis from his early manhood and throughout his life, he had an extra personal attraction for the great Franciscan doctor and saint, Bonaventure. Among colleagues more engaged with the work of St. Thomas, Father Quinn delighted in emphasizing that Bonaventure was a philosopher and theologian in his own right and that he was no less original than the Angelic Doctor in his magnificent synthesis of the teaching that went before him and was to be found in the Doctors and Fathers of the Church. Father Quinn also felt a special affinity for Bonaventure as an "organization man" who for at least five terms held the office of Minister General.

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## DESIRE FOR BEATITUDE AND LOVE OF FRIENDSHIP IN THOMAS AQUINAS\*

*David M. Gallagher*

### INTRODUCTION

ACCORDING to his teleological understanding of nature and indeed the whole universe, Thomas Aquinas maintains that each being possesses appetite, an inner tendency or inclination by which it tends toward its own appropriate perfection. While there are various levels of appetite according to the various kinds of beings, they all share analogously in this common function, that of directing the being to its own fulfillment. This for Thomas is one of the marvels of creation: that God did not create beings which would be moved only from external causes, but rather endowed beings with their own interior principles of motion. At the peak of all the levels of appetite stands the will, the free appetite of the rational being. While distinct as free and rational, the will remains the appetite of an *individual* being and so, like all appetite, is a source of tendency and motion toward that being's perfection. Thus Thomas posits that the will's most fundamental inclination, its natural inclination, is toward beatitude, the fulfillment or perfection of the rational being in which it is found.

This basic understanding of appetite has fundamental implications for Thomas's doctrine of love. Love is appetitive activity, and, in fact, the most basic of all such activities. As such it cannot but be an expression of this underlying ordination to fulfillment. This ordination is essential to love, moreover, not only in lower level appetites, but also in the rational, human appetite. Such an appetite is free, but all free inclinations of the will are ultimately rooted in the will's natural inclination, the tendency to beatitude. Thus in every act of willing, including loving, one seeks one's own good, that by which one will be perfected or fulfilled. It is not surprising, then, to find Thomas saying that the object of love is always one's own good (*bonum suum*).<sup>1</sup>

\* I would like to express my gratitude to the Hanns Seidel Foundation of Munich for the support and to the Thomas-Institut at the University of Cologne for the hospitality which enabled me to prepare this article.

<sup>1</sup> "Et ideo oportet quod ratio amoris accipiat ex eo quod est commune obiectum appeti-

At the same time, Thomas teaches that persons love other persons and do so with a "disinterested" love. That is to say, they love others for the others' sake. Following Aristotle, Aquinas distinguishes honest or true friendship from relationships based on utility or pleasure, because in the former the friend is loved for his own sake and not for the benefits received from him.<sup>2</sup> As for God, one should love him for his own sake, not just on the level of grace but even on that of nature, and even more than one loves oneself. How then is it possible that the will, considered as appetite directed to one's own fulfillment or perfection, could be the source of acts of loving others for their own sake? If one loves all that one loves as being ordered to one's fulfillment or happiness, it would seem that ultimately the love for the other cannot be for the sake of the other, but somehow, perhaps very subtly, one's love always intends the other as a means to one's own perfection. Is Thomas inconsistent with himself? Is it possible to understand human appetite or will in the framework of natural appetite without undermining the possibility of "disinterested" love of other persons?

It is precisely this issue, sometimes referred to as "the problem of love," that will be taken up here.<sup>3</sup> This requires both an analysis of the will's natural desire for beatitude and an analysis of the Thomistic understanding of love. Within Thomas's understanding of love, of central importance is his distinction between love of friendship (*amor amicitiae*) and love of concupiscence (*amor concupiscentiae*). This distinction lies at the heart of almost every major aspect of Thomas's teaching about love and appears at several crucial junctures in his moral teaching as a whole. From within this distinction, the question of whether and how the love of others is "disinterested" or "interested" requires a focus on the love of friendship. The

tus. Hoc autem est bonum. Ex hoc igitur aliquid dicitur amari, quod appetitus amantis se habet ad illud sicut ad suum bonum" (Thomas Aquinas, *In librum beati Dionysii De divinis nominibus expositio* [*De div. nom.*] 4.9 n.401; cf. n.406). All quotations of *De div. nom.* are from the Marietti edition (Turin-Rome, 1950). Unless otherwise stated, quotations from the works of Aquinas will be from the Leonine editions.

<sup>2</sup> Thomas Aquinas, *Summa theologiae* (ST) 1-2.26.4 ad 3.

<sup>3</sup> This theme, under the rubric of "the problem of love," has been the topic of discussion among Thomists for close to a century. Three treatments of the question, each claiming to correct the preceding, form the center of the discussion: Pierre Rousselot, *Pour l'histoire du problème de l'amour au moyen âge*, Beiträge zur Geschichte der Philosophie des Mittelalters. Texte und Untersuchungen 6/6 (Münster, 1908), esp. 1-42; Louis-B. Geiger, *Le problème de l'amour chez saint Thomas d'Aquin* (Montreal and Paris, 1952); Avital Wohlman, "Amour du bien propre et amour de soi dans la doctrine thomiste de l'amour," *Revue Thomiste* 81 (1981): 204-34. While each interpretation has emphasized important elements of Thomas's analysis, in my view none has sufficiently recognized the central role of the distinction between *amor concupiscentiae* and *amor amicitiae*. For additional discussions of the issue, see Bénézet Bujo, *Die Begründung des Sittlichen: Zur Frage des Eudämonismus bei Thomas von Aquin* (Paderborn,

aim here will be to show how the desire for beatitude, which is a love of self, gives rise to a true love of others for their own sake.

Accordingly we shall describe the natural inclination to happiness (section I); explicate Thomas's understanding of love as both *amor amicitiae* and *amor concupiscentiae*, analyzing in terms of this distinction the natural desire for happiness (section II); describe the love of friendship and show how it arises from the natural desire for happiness (section III); and finally turn to the consistency of a "disinterested" love for others with the natural desire for one's own happiness (section IV).

### I. THE NATURAL INCLINATION TO BEATITUDE AS THE PRINCIPLE OF WILL-ACTS

According to Thomas, the end is the first principle of all human action and of all practical reasoning: to it all else is directed and this directedness determines whether an action will be performed and what species it will have. The last or ultimate end (*finis ultimus*), beyond which there is no further end, and which accordingly is the end of every action, is happiness (*beatitudo*). This ultimate end consists in the fulfillment or perfection of the agent. Each person has an idea of an optimal completed or perfected state, for as Aristotle points out, everyone thinks that what is to be sought in life is happiness (*εὐδαιμονία*), that is, living well (*εὖ ζῆν*) or acting well (*εὖ πράττειν*).<sup>4</sup> It is with a view to this perfected state that a person chooses his actions, both those directed to immediate needs and pleasures and those aimed at long-term or even life-long achievements.

Why does Thomas hold that *all* persons seek happiness? First of all, there is simple empirical evidence. As Aristotle noted, while different individuals seek their fulfillment in different goods, all share the view that happiness is to be sought. That each person seeks his own fulfillment is simply part of human experience.

There is, however, a more reflective argument for this view, arising from an analysis of human action. Choice, the characteristic element of such action, consists in the election of one from two or more possible means in light of an end to be achieved. This implies that for a person to choose he must have a prior desire for the end. If he desires this end because he has previously chosen it, then we must posit once again a previous desire for the end to which that previous choice was directed. Clearly this procedure cannot go on infinitely; there must be an end which is desired without

1984); and Robert Spaemann, *Reflexion und Spontaneität: Studien über Fénelon*, 2d ed. (Stuttgart, 1990), esp. 88–106.

<sup>4</sup> Aristotle, *Nicomachean Ethics* 1.4 (1095a19–20).

having been chosen, and this end must be an ultimate end, an end beyond which there is no other end and beyond which nothing more is desired. This end, says Thomas, is happiness or fulfillment. Moreover, insofar as the desire for this end cannot be chosen, it must be natural.<sup>5</sup> It must inhere in the person prior to all choice as a constitutive element of the very essential structure that renders a person human and capable of human action. As such, the desire for one's own happiness is innate, a simple given which, as the source of all choices, could never itself be the object of choice or something to be either sought or rejected.

To attribute to human beings a natural desire for their own perfection or fulfillment is in harmony with Thomas's larger understanding of nature as a whole. Every natural being, on his view, possesses a determinate nature, and in accord with this nature a determinate, innate drive or striving for its *own* perfection. This is most visible in living beings which strive first to maintain themselves in existence and then to achieve the most perfect condition possible in the environment in which they find themselves.<sup>6</sup> In the larger view of the universe, these strivings are seen as imitations of the divine goodness with each being striving, according to its kind, to imitate or become a *similitudo Dei*. It does so, however, precisely by its innate drive to its own perfection.<sup>7</sup> Hence the human drive or striving for perfection which is implanted in human nature is, one might say, only to be expected.

In the case of human persons, the perfection which is the object of the natural desire is a formality and not any specific good being or good action. What each person desires by nature is simply "that-which-will-perfect-him," what Thomas calls the general meaning of happiness (*communis*

<sup>5</sup> For this argument, see Thomas Aquinas, *De veritate* (*De ver.*) 22.5; *ST* 1.60.2, 1.82.1 c. and ad 3, 1-2.1.4-6, and 1-2.13.3.

<sup>6</sup> E.g., *De ver.* 22.7 c.: "Aliis enim rebus inditus est naturalis appetitus alicuius rei determinatae, sicut gravi quod sit deorsum, et unicuique etiam animali id quod est sibi conveniens secundum suam naturam; sed homini inditus est appetitus ultimi finis sui in communi . . ."; *ST* 1.5.1 c.: "Manifestum est autem quod unumquodque est appetibile secundum quod est perfectum: nam omnia appetunt suam perfectionem"; *ST* 1.5.5 c.: "Ad formam autem consequitur inclinatio ad finem, aut ad actionem, aut ad aliquid huiusmodi; quia unumquodque, inquantum est actu, agit, et tendit in id quod sibi convenit secundum suam formam." Cf. *De ver.* 22.1 c.; *Summa contra gentiles* (*SCG*) 3.3 and 16.

<sup>7</sup> See *SCG* 3.16-24 for this doctrine of *similitudo Dei*. At the end of this section, Thomas points out that even when one being acts on another it is seeking its own good and perfection: "Inquantum autem unumquodque bonitatem diffundit in alia, fit aliorum causa. Hinc etiam patet quod unumquodque tendens ad hoc quod sit aliorum causa, tendit in divinam similitudinem, et nihilominus tendit in suum bonum" (*SCG* 3.24). Cf. *ST* 1.6.1 ad 2: "Ad secundum dicendum quod omnia, appetendo proprias perfectiones, appetunt ipsum Deum, inquantum perfectiones omnium rerum sunt quaedam similitudines divini esse. . . ."

*ratio beatitudinis*) or happiness in general (*felicitas in universali*). This is the “bonum perfectum” in the sense that it is the good which fully perfects the person and so fully quiets all desires. The natural desire reaches no further than that; it does not extend to the various particular goods or combinations of goods that materially make up one’s perfection.<sup>8</sup> There are a great number of goods, such as wealth, pleasure, fame, or knowledge, which a person might take as that specific perfecting good; both the *Summa contra gentiles* and the *Summa theologiae* examine these in detail. But whether or not a person actually tends to any specific good(s) as to his end is determined only by the free choice of that individual, and not by the natural desire.<sup>9</sup> This distinction between the formality of happiness as the perfect good and the material goods desired under that formality is crucial for Thomas’s doctrine of happiness, for it allows him, in the face of the manifold differences in the goods actually pursued, to posit a uniform desire for happiness in all persons, and also to explain how the natural desire leaves unrestricted the free self-determination of the person even with respect to the end.

For our purposes, we must emphasize three further points concerning Thomas’s teaching about human happiness. The first is that all other acts of the will stem from the will’s natural inclination to happiness. This is simply the corollary of Thomas’s argument that there must be a natural inclination at all; if there must be one natural act from which all others flow, then all the others must flow from that one. Thomas states this in

<sup>8</sup> *De ver.* 22.7 c.: “. . . sed homini inditus est appetitus *ultimi finis sui in communi*, ut scilicet appetat naturaliter se esse completum in bonitate. Sed in quo ista completio consistat, utrum in virtutibus vel scientiis vel delectationibus vel huiusmodi aliis, non est ei determinatum a natura”; *De ver.* 24.8 c.: “. . . voluntas naturaliter appetit bonum quod est finis, scilicet *felicitatem in generali* . . .”; *ST* 1-2.1.7 c.: “. . . de ultimo fine possumus loqui dupliciter: uno modo, *secundum rationem ultimi finis*; alio modo, secundum id in quo finis ultimi ratio invenitur”; *ST* 1-2.5.8 c.: “. . . beatitudo dupliciter potest considerari. Uno modo, *secundum communem rationem beatitudinis*. . . . Alio modo possumus loqui de beatitudine secundum specialem rationem, quantum ad id in quo beatitudo consistit.” Cf. *De ver.* 24.7 ad 6. Thomas refers to this desire for happiness in general as the *communis appetitus beatitudinis* (*De ver.* 22.5 ad 1). Emphases added.

<sup>9</sup> For the particular goods that can be chosen as last ends, see *SCG* 3.25–37; *ST* 1-2.2. The happiness under discussion here is limited to what Thomas calls *beatitudo imperfecta*, the natural happiness that can be achieved in this life, as opposed to the *beatitudo perfecta* that consists in the (supernatural) beatific vision after death. As Thomas points out in *ST* 1-2.4, the happiness of this life requires several goods, and as such, the material instantiation of natural happiness is not found in a single good but in many. There will be, nevertheless, a priority for the spiritual goods, i.e., the acts of the virtues, especially the acts of the intellectual virtues. The instantiation of happiness in a single good, God as seen in the beatific vision, is proper to theological ethics. On this point and the general relation of philosophical and theological ethics in Aquinas, see Wolfgang Kluxen, *Philosophische Ethik bei Thomas von Aquin*, 2d ed. (Hamburg, 1980), esp. 124–63.

many texts, most clearly perhaps in the *Prima secundae*.<sup>10</sup> This doctrine does not mean, however, that every agent in every act must explicitly think about happiness. Thomas distinguishes between actual willing, wherein a person actually thinks of the object willed, and habitual willing, in which a previously chosen determination of the will, without being explicitly considered, is effectively at work in a present choice. Aquinas points to a person who is walking without thinking at that moment about his destination. In this way, the willing of the last end, happiness, is at least habitually present in all willing and in every action.<sup>11</sup>

Second, the desire for happiness is the desire for the fulfillment or perfection of the *individual*. This is clear from Thomas's texts and from his argumentation, especially in the extended treatment of happiness in qq. 1–5 of the *Prima secundae*. In the discussion of whether or not one man can have several final ends (q. 1 a. 5), or of whether there is one final end for all men (q. 1 a. 7), or even of whether one man needs friends to be happy (q. 4 a. 8), it is clear that the happiness in question is the individual happiness of each agent. This point comes to the fore most strikingly in Thomas's brief discussion of a person's first free act.<sup>12</sup> In the first years of one's life, one is not capable of properly human action, action directed by one's own reason. Upon reaching the age of discretion (*anni discretionis*), the point at which a person begins to act freely, the first thing the person thinks about is *himself*; his very first deliberation concerns himself and the end to which he will direct himself. That is to say, his first deliberation and willing concern his own happiness. All other acts of the will depend upon and follow from this first and most basic one.<sup>13</sup>

<sup>10</sup> *ST* 1-2.1.6: "Utrum homo omnia quae vult, velit propter ultimum finem"; also *ST* 1.60.2 c.: "Unde voluntas naturaliter tendit in suum finem ultimum: omnis enim homo naturaliter vult beatitudinem. Et ex hac naturali voluntate causantur omnes aliae voluntates: cum quidquid homo vult, velit propter finem." Cf. *De ver.* 22.5 c.; *ST* 1.82.1 c.; *De caritate* q. un. a. 1 c.

<sup>11</sup> *ST* 1-2.1.6 ad 3: "Ad tertium dicendum quod non oportet ut semper aliquis cogitet de ultimo fine, quandocumque aliquid appetit vel operatur: sed virtus primae intentionis, quae est respectu ultimi finis, manet in quolibet appetitu cuiuscumque rei, etiam si de ultimo fine actu non cogitetur. Sicut non oportet quod qui vadit per viam, in quolibet passu cogitet de fine." Cf. *De ver.* 22.5 ad 11. It would seem that the discussions which treat the possibility of not willing one's happiness (*ST* 1-2.10.2 and *De malo* 6) refer to actual and not habitual willing.

<sup>12</sup> *ST* 1-2.89.6. This article takes up the theological question of whether a person can commit a venial sin without first committing a mortal sin. Since mortal sin concerns the ordination of the person to an improper ultimate end, and since for Thomas the will's order to the end is the principle of all other acts of the will, this question provides the context for discussing a person's first deliberation and first free will-act. The importance of this article has been noted and developed by Jacques Maritain, "La dialectique immanente du premier acte de Liberté," in *Raison et raisons: Essais détachés* (Paris, 1947), 131–65.

<sup>13</sup> *ST* 1-2.89.6 c.: "Cum vero usum rationis habere inceperit, . . . primum quod tunc homini cogitandum occurrit, est deliberare de seipso"; also ad 3: "Primum enim quod occurrit homini discretionem habenti est quod de seipso cogitet, ad quem alia ordinet sicut ad finem: finis enim

Third, this doctrine of the will's ordination to happiness is linked to the understanding of will as animal appetite. This is not to say that the will is the appetite of a brute animal, but rather that it, like the concupiscible and irascible appetites in such an animal, is the appetite of the individual as a whole. Each individual power of the soul (e.g., an external sense) has a certain appetite or inclination toward its proper object. There are, however, over and above such inclinations, the properly appetitive powers, those powers by which the animal strives for its well-being as a whole.<sup>14</sup> In rational beings, this power is the will, for it is by the will that the individual moves himself as a whole. By nature these animal appetites are directed to the well-being or fulfillment of that being to which they belong. In brute animals this direction comes by way of instinct. In human beings, in contrast, it comes through free actions. The will is free, i.e., a principle of free personal actions, because its formal object is not any determinate good, but rather the good in general (*bonum in communi*).<sup>15</sup> Precisely as rational appetite it has a universal object, and this universality means that in willing any particular object or action, we do so under the intelligibility of goodness (*sub ratione boni*); we choose what we choose precisely because we see it *as good*. Nevertheless, while the will's object, the universal or unrestricted good, allows us to will all goods, the will remains always the appetite of a person. Unrestricted as I may be in the pursuit of specific goods, I will every good that I will as *my* good. The will does not cease to be animal appetite, and so it is always ordained to *my* good. Consequently we can say that the will's natural inclination to happiness is only an expression of its being as animal or personal appetite. Still, as we shall see, the fact that its object is the *bonum in communi* allows for goods to be my good in a special, non-egoistical way.

Let us summarize Thomas's understanding of the desire for happiness and its role in the willed action of the person. First, there is in each person a natural desire for perfection, i.e., for that good(s) which will completely fulfill the person and quiet his desires. Second, this desire is directed to the

est prior in intentione."

<sup>14</sup> ST 1.80.1, especially ad 3: "Ad tertium dicendum quod unaquaeque potentia animae est quaedam forma seu natura, et habet naturalem inclinationem in aliquid. Unde unaquaeque appetit obiectum sibi conveniens naturali appetitu. Supra quem est appetitus animalis consequens apprehensionem, quo appetitur aliquid non ea ratione qua est conveniens ad actum huius vel illius potentiae, utpote visio ad videndum et auditio ad audiendum; sed quia est conveniens simpliciter animali."

<sup>15</sup> Typical characterizations of the will's formal object are the following: *ipsum bonum absolute* (De ver. 25.1 c.); *ipsum universale bonum* (ST 1.59.1 c.); *bonum secundum communem boni rationem* (ST 1.59.4 c.); *bonum universale* (ST 1-2.2.7 c.).

person's own self; it is his own perfection that is naturally desired. Third, this basic desire is the source of all other acts of the will: "from this natural willing are caused all other willings, since everything that a person wills he wills for the sake of the end."<sup>16</sup> This natural desire for beatitude is actually a natural self-love, as we shall see in studying Thomas's notion of love.

## II. LOVE AS THE FIRST ACT OF THE WILL

### A. Love as a Passion

For Aquinas, love (*amor*) is found not only in rational beings but throughout the whole of nature, animate and inanimate, and accordingly this whole provides the context for his discussion. Nature, as we have seen, is not static. Rather, every being is endowed with some sort of *appetitus* or inclination by which it moves toward its good or perfect state and tends to remain in that state, having once acquired it. Thomas calls this inclination, or more precisely the inner source of this inclination, *amor*. Hence Thomas's theories of appetite and of love are the same. There are various kinds or levels of appetite and love according to their presence in different kinds of beings, and the term "appetite" may seem more appropriate for the lower while "love" may seem more suitable for the higher, spiritual levels. Nevertheless both terms refer to the inclinations or tendencies in a being which give rise to its characteristic motions.<sup>17</sup>

To understand Thomas's explanation of love in rational beings, we must start, as he does, with the lowest level of love, that found in beings without cognition. His example is that of a heavy body, e.g., a stone, and its inner tendency to fall toward the center of the earth. A stone not at the center has an inclination to move toward that point, and likewise, a stone at the center rests there and resists being moved. There is a certain fittingness of that place for the stone; we can say that it is the "right" or "connatural" or "proportionate" place for the stone, and from this *connaturalitas* or *proportio* arise both the rest in that place when there and the tendency to move to that place when not there. Thomas calls precisely this fittingness or connaturality "love." The love is neither the inclination to move to that point nor the rest in that point but rather what underlies both and gives

<sup>16</sup> *ST* 1.60.2 c. (see n. 10 above).

<sup>17</sup> "Est autem hoc commune omni naturae, ut habeat aliquam inclinationem, quae est appetitus naturalis vel amor. Quae tamen inclinatio diversimode invenitur in diversis naturis, in unaquaque secundum modum eius" (*ST* 1.60.1 c.); also "... amor est aliquid ad appetitum pertinens: cum utriusque obiectum sit bonum. Unde secundum differentiam appetitus, est differentia amoris" (*ST* 1-2.26.1 c.). Cf. *ST* 1.20.1 c.; *De div. nom.* 4.9 n.402 (see n. 30 below).

rise to both. In all appetite, there must be this basic connaturality or proportion between the inclining being and the good toward which it inclines.<sup>18</sup> In the case of the stone this connaturality is called *gravitas*.<sup>19</sup> The chief point here is that prior to motion, and prior even to the inclination to that motion is the underlying proportion. This proportion or love is the source or cause of both the inclination to motion and the rest in the acquired good. Love always gives rise either to the inclination or to the rest, depending upon whether it possesses the loved good or not.

When we turn to higher, cognitive beings, both irrational and rational, we find a similar structure, yet also a crucial difference caused precisely by the presence of cognition. For a being like a stone or a plant, inclinations or strivings are determined by the natural form; simply as the kind of being it is, it possesses its determinate inclinations. In beings endowed with cognition, however, there are strivings that do not arise directly from the natural form, but rather are produced in the animal through the medium of cognition.<sup>20</sup> Like the stone, the animal must have some underlying proportion or fittingness to the object of its inclination, which proportion is the source of the inclination. In this case, Thomas holds, the proportion arises through the interplay of the cognitive and appetitive faculties of the soul. When a suitable object is cognitively present, the appetitive faculty undergoes a change, an *immutatio*, by which it becomes proportionate to this particular object and hence a source of striving toward it.<sup>21</sup> This being proportionate to the object which the object itself, through cognition, works in the appetite is exactly what Thomas understands as love at this level.<sup>22</sup>

To express this primary working of the object in the appetite which is love, Thomas employs a number of terms, of which three are particularly

<sup>18</sup> Thomas expresses the need for this proportion as follows: "Manifestum est autem quod omne quod tendit ad finem aliquem, primo quidem habet aptitudinem seu proportionem ad finem, nihil enim tendit in finem non proportionatum; . . ." (*ST* 1-2.25.2 c.); cf. *ST* 1-2.27.1 c.

<sup>19</sup> *ST* 1-2.26.1 c.: "In appetitu autem naturali, principium huiusmodi motus est connaturalitas appetentis ad id in quod tendit, quae dici potest amor naturalis: sicut ipsa connaturalitas corporis gravis ad locum medium est per gravitatem, et potest dici amor naturalis." Cf. *ST* 1-2.26.2 c.

<sup>20</sup> For the role of form in the various levels of appetite, see, for example, *SCG* 2.47 (*Amplius*) and 2.48 (*Adhuc*); *ST* 1.19.1 c. and 1.80.1 c.; *De malo* 6 a. un. c.

<sup>21</sup> The word "appetite" presents an ambiguity that reflects Thomas's twofold use of the term *appetitus*. *Appetitus* refers both (a) to the actual striving or desire for a good and (b) to that power or faculty of the soul which gives rise to desires resulting from cognition (see *ST* 1.19.1 ad 2 and 1.80.1). In practice, context usually leaves little doubt as to the sense being employed.

<sup>22</sup> *ST* 1-2.26.1 c. (see n. 25 below); cf. *ST* 1-2.26.2 c. and 1-2.25.2 c.

helpful.<sup>23</sup> First, he speaks of the *immutatio*, which expresses that a change has occurred, that a new condition or formal determination is present in the appetitive power. The change is caused, in terms of formal and final causality, by the cognitively grasped object. Second, this change is referred to as a *coaptatio*. This term, in addition to the fact of change, expresses that by this change the appetite acquires that proportion to the object which is needed in all appetite. The appetite is, so to speak, adapted to the object.<sup>24</sup> These two terms express the ontological facts of change and proportion. The third, *complacentia*, is a psychological description of love. *Complacentia boni* expresses, we could say, the lived experience of being pleased with the object, the first delighting in or affirmation of the object as good for the lover which underlies both the desire really to be united to it and the joy that follows upon real union.<sup>25</sup>

Here we can see that love at the higher levels, just as at the lower levels, gives rise immediately to further affections. When one has *complacentia* in a good, i.e., loves it, one wants to be joined to or possess that good; for example, the cat immediately experiences an inclination or urge to have the mouse. This is desire (*desiderium*). If the loved good is possessed, one delights or rejoices in it (*delectatio* or *gaudium*). That love causes these further affections is essential to love; without them it would not be love. Hence Thomas teaches that love is the first of all affections, the first of the passions. All others proceed from love. For example, the irascible passions

<sup>23</sup> Here I am following H. D. Simonin, "Autour de la solution thomiste du problème de l'amour," *Archives d'Histoire doctrinale et littéraire du Moyen Age* 6 (1931): 174–274, esp. 179–94. In his discussion of love in *ST* 1-2, Thomas employs the following terms to express the acquired condition in the appetite which formally is love: *aptitudo*, *coaptatio*, *complacentia*, *consonantia*, *connaturalitas*, *convenientia*, *immutatio*, *inclinatio*, *proportio*.

<sup>24</sup> It is important to note that this *coaptatio* or aptitude refers to the state, here and now, so to speak, of the appetite with reference to a determinate object. This is distinct from the habitual disposition which the being has either by nature or by acquired habit, by which it is prone to undergo a *coaptatio* when the object is cognitively grasped. That is to say, there must be some prior disposition or *proportio* to mice in the cat if it is to respond affectively to the mouse when seen. What Thomas is referring to here is that first change in the appetite of the cat by which *this* mouse is suitable to it and becomes the object of its desire. See Simonin, "Autour de la solution thomiste," 192.

<sup>25</sup> Some representative texts from *ST* 1-2 employing these terms are the following: "Ipsa autem *aptitudo* sive *proportio* appetitus ad bonum est amor, qui nihil aliud est quam *complacentia* boni; motus autem ad bonum est desiderium vel concupiscentia; quies autem in bono est gaudium vel delectatio" (*ST* 1-2.25.2 c.); "Et similiter *coaptatio* appetitus sensitivi, vel voluntatis, ad aliquod bonum, idest ipsa *complacentia* boni, dicitur amor sensitivus, vel intellectivus seu rationalis. Amor igitur sensitivus est in appetitu sensitivo, sicut amor intellectivus in appetitu intellectivo" (*ST* 1-2.26.1 c.); "Sic etiam ipsum appetibile dat appetitui, primo quidem, quandam *coaptationem* ad ipsum, quae est *complacentia* appetibilis; ex qua sequitur motus ad appetibile" (*ST* 1-2.26.2 c.); emphasis added.

of hope and despair, which have as their object the difficult good (*bonum arduum*), depend upon desire; we hope for and despair of only those goods that we desire. So too, we are sad only if we fail to have a desired good. The passions directed to evils such as aversion, anger, or fear all take their rise from hatred, the counterpart of love with respect to evils. Hatred, however, is directed to evil precisely insofar as that signifies a loss of some good, but if the good were not loved, we would not hate what corrupted it. Thus all passions, and all the motions arising from them, have their root in love.<sup>26</sup>

### B. Rational Love: *Dilectio*

Thomas distinguishes the sense appetite proper to animals from will, the appetite proper to rational beings, and accordingly posits a distinct, higher form of love in these latter. Love of this kind is called *dilectio*.<sup>27</sup> *Dilectio* is distinct from sensible love in three important ways. First, sensible love is, properly speaking, a passion, while the will's affections are not. As a passion, love has a bodily component, and hence not only its object but also the affection itself is sensible. This bodily element is most evident in passions like anger or fear. *Dilectio*, in contrast, being the act of a spiritual power, lacks this bodily aspect. Thus the affections of the will are parallel to the passions and receive the same names as their corresponding passions, but are not themselves passions in the strict sense. The treatment of the passions in the *Summa theologiae* (1-2 qq.22–48) is directed chiefly to the passions properly speaking, but also deals with the affections of the will, especially in the case of *amor*.<sup>28</sup>

Second, the will is capable of free acts, while the motions of the sense appetites in brute animals are not free but rather governed by instinct. As Thomas often remarks, the sheep on seeing the wolf “judges” that it should flee; this in fact is to say that the sheep has hatred, aversion, and fear of the wolf. But the sheep has no control over the fact that it experi-

<sup>26</sup> For the priority of love to all other passions, see *ST* 1.20.1 c. and 1-2.25 (especially aa.1–2); *De ver.* 26.4 ad 5.

<sup>27</sup> For this distinction, see *ST* 1.60.1 and 1-2.26.3; *De div. nom.* 4.9 n.402 (n. 30 below); *3 Sent.* d.27 q.2 a.1 c. (all quotations from *Scriptum super libros Sententiarum* are from the edition by P. Mandonnet and M. Moos, 4 vols. [Paris, 1929–47]).

<sup>28</sup> See *ST* 1-2.22.3, especially ad 3: “. . . amor et gaudium et alia huiusmodi, cum attribuantur Deo vel angelis, aut hominibus secundum appetitum intellectivum, significant simplicem actum voluntatis cum similitudine effectus, absque passione.” Affective motions in the will can, for Thomas, give rise to sensible passions, and the will can command the acts of the passions; see *ST* 1-2.17.7 and 1-2.24.1–3; *De ver.* 26.6–7.

ences these affections.<sup>29</sup> In the case of rational beings, in contrast, the *coaptatio* or *complacentia* can occur because the person chooses that it occur. Consequently, on the level of rational appetite or *dilectio*, whether a person will love another person or some other good can be a matter of free choice.<sup>30</sup> As we have seen already, however, all choices are based ultimately on a natural inclination in the will, and accordingly Thomas draws a distinction between *dilectio naturalis* and *dilectio electiva*. Both are in the rational appetite, but the first is not free.<sup>31</sup>

The third distinction, the most important of the three, is that between the formalities under which the object is loved in the two levels. At the level of sense appetite, one is attracted to sensible goods precisely insofar as they produce a good enjoyed at the level of sense, i.e., *sensible pleasure* (or in the opposed case, *sensible pain*). For example, my attraction to food at this level is only in terms of the pleasure it produces. As long as I and the food are such that I find pleasure in the food, I will find it desirable. At a certain point I am sated and so lose my desire, but only because eating ceases to be pleasant. The sense appetite knows no regulation in terms of health, decency, etc. Rational appetite, on the other hand, is attracted to an object simply *as good* (*sub ratione boni*). To continue with the example, I may, on the basis of rational judgment, eat only what is healthy for me or only what is fitting given the company of the present moment. Here the food to be eaten is taken as good, not merely in terms of the pleasure it provides, but in terms of whether it is good for me simply. Here the measure is what is perfective of me, the good always being what is perfective.<sup>32</sup> I judge that on the whole I am better off healthy than not healthy. At times it happens that what is better on the whole is injurious to my health; in such a case I would not rationally pursue what conduces to health. The measure by which reason is guided is always what is good for me simply.

<sup>29</sup> This "judgment" is attributed to the estimative power whose judgments are governed by nature: see *ST* 1.78.4 c.; *De ver.* 24.1-2; *SCG* 2.48 (*Item* and *Praeterea*).

<sup>30</sup> "... cum enim amor ad appetitum pertineat, secundum ordinem appetituum est ordo amorum. Est autem imperfectissimus appetituum, naturalis appetitus absque cognitione, quod nihil aliud importat quam inclinationem naturalem. Supra hunc autem est appetitus sensibilis, qui sequitur cognitionem, sed est absque libera electione. Supremus autem appetitus est qui est cum cognitione et libera electione: hic enim appetitus quodammodo movet seipsum, unde et amor ad hunc pertinens est perfectissimus et vocatur dilectio, inquantum libera electione discernitur quid sit amandum" (*De div. nom.* 4.9 n.402).

<sup>31</sup> *ST* 1.60.1-3. When Thomas speaks of *dilectio* as being distinct from *amor* in general because it includes the element of choice (*ST* 1-2.26.3; *De div. nom.* 4.9 n.402), he seems to have *dilectio electiva* especially in mind. *Dilectio naturalis* implicitly points to choice insofar as it is the principle of chosen love.

<sup>32</sup> For the relationship of *bonum* to *perfectum*, see especially *ST* 1.5.1.

Thus I can, at the rational level, pursue sensible pleasures, but only if I somehow judge (truly or falsely) that those pleasures are a good for me simply and not just *qua* sensibly pleasant.<sup>33</sup>

Since sensible pleasure (taken at the sensible level) can be the good only of the one experiencing it, and objects here are loved precisely as productive of pleasure, such objects are always loved *for the sake of the individual good of the lover*. At the sense level there is no affirmation of the goodness of the other in itself; all objects are good only in reference to the individual pleasure of the lover and neither as goods in themselves nor for their own sake. In order to love objects as goods in themselves, i.e., to have complaisance in another being for the good that it is in itself, an appetite is required that is directed to the good as such. This is rational appetite whose object is the *bonum in communi*. Only here, at the level of *dilectio*, does the possibility arise of a love which is not directed to the good of the individual as such. As L.-B. Geiger emphasized, the rationality of the will allows for a certain "objectivity" in love (*l'objectivité de l'amour spirituel*) by which other beings are loved for the good they possess and not only for the good or perfection they can produce in the lover.<sup>34</sup> Nevertheless, as we have seen, the will is personal appetite, and hence even the other loved on the basis of his own good must be loved somehow as the lover's good.

Despite these differences, *dilectio* retains the basic structure of *amor*: It consists in a *coaptatio* to or *complacentia* in the known, good object, and it gives rise to the desire to be united with the loved object or to the joy one takes in the object if united to it.

### C. Love of Friendship and Love of Concupiscence

On the level of *dilectio* or rational love, Thomas introduces the distinction between love of friendship (*amor amicitiae*) and love of concupiscence (*amor concupiscentiae*). This is an extremely important distinction in his theory of love and plays a central role in all that here follows. Hence we must try to clarify it. Its simplest formulation appears in the treatise on

<sup>33</sup> For this distinction between sensitive and rational appetites, see *ST* 1-2.4.2 ad 2: "Ad secundum dicendum quod apprehensio sensitiva non attingit ad communem rationem boni, sed ad aliquod bonum particulare quod est delectabile. Et ideo secundum appetitum sensitivum, qui est in animalibus, operationes quaeruntur propter delectationem. Sed intellectus apprehendit universalem rationem boni, ad cuius consecutionem sequitur delectatio. Unde principalius intendit bonum quam delectationem." See also *ST* 1-2.30.1-2; *SCG* 3.26 (*Adhuc*<sup>4</sup>); *Sentencia libri De sensu et sensato*, Prohemium (Leonine edition 45.2:8, ll. 222-42).

<sup>34</sup> Geiger, *Le problème de l'amour chez saint Thomas d'Aquin*, 75-80.

the passions in the *Summa theologiae* (1-2.26.4), where Thomas explicitly raises the question of whether love is suitably divided into love of friendship and love of concupiscence. He bases his reply on Aristotle's definition of love as "willing the good for someone":

I answer that as the philosopher says in *Rhetoric* Bk. II, "to love is to will the good for someone." In this way, then, the motion of love tends toward two things: namely, toward some good which one wills for someone, either for one's self or for another; and toward that [person] for which one wills this good. Thus one loves the good that is willed for the other with love of concupiscence, and one loves that [person] for which the good is willed with a love of friendship.<sup>35</sup>

According to this text, love at the level of *dilectio* is always "two-pronged": there are always *two* objects, the person loved and a good or goods which are loved as good for that person. The love directed to the person is love of friendship (*amor amicitiae*) while that directed to the goods for the person is love of concupiscence (*amor concupiscentiae*).

These two loves are distinguished but never separated. Thomas, following Aristotle, maintains that we do not love objects like wine or horses simply for their own sake, as things for whom we will other goods. Rather we love them as good *for someone*, i.e., with a love of concupiscence, and this love is always joined to the love of that person for whom we love the object.<sup>36</sup> So too, one cannot speak of loving someone with a love of friendship without implying the presence of a love for what is good for that person. This is clear if we try to articulate the opposite: "I love you, but I am completely indifferent as to whether or not you possess what is good for you." To love someone is to be affectively so constituted in his regard as to desire that he obtain the good he lacks and to rejoice in the good he possesses, desire and joy being, as we saw earlier, the immediate consequences

<sup>35</sup> "Respondeo dicendum quod, sicut Philosophus dicit in II *Rhetoric*. [1380 b35], *amare est velle alicui bonum*. Sic ergo motus amoris in duo tendit: scilicet in bonum quod quis vult *alicui*, vel sibi vel alii; et in *illud* cui vult bonum. Ad illud ergo bonum quod quis vult *alteri*, habetur amor concupiscentiae: ad *illud* autem cui aliquis vult bonum, habetur amor amicitiae" (*ST* 1-2.26.4 c.). The translation of the pronouns in this text is somewhat difficult. All the pronouns I have italicized could be translated as neuter; the two *illuds* can only be neuter. The difficulty here is that, as we shall see below (n. 46), Thomas holds that only persons can be the objects of *amor amicitiae*. It may be that he uses the neuter pronoun here in order to emphasize the fact that we are dealing with a certain structure; i.e., what is loved for itself vs. what is loved for another, and that the use of the neuter points up the abstract structure. In other texts the personal nature of the object is clearer, as, e.g., *ST* 1.20.1 (see following note).

<sup>36</sup> *ST* 1.20.1 ad 3: "Ad tertium dicendum quod actus amoris semper tendit in duo: scilicet in bonum quod quis vult alicui; et in eum cui vult bonum. Hoc enim est proprie amare aliquem, velle ei bonum."

of love. When we speak of love for a person, we imply a connected love of concupiscence for that which is good for the person, and likewise when we speak of love for what is not a person, we always imply a love for some person for whom these goods are loved.<sup>37</sup>

The names *amor amicitiae* and *amor concupiscentiae* can be deceiving. First, while all true friendships require love of friendship, the love here described by Thomas is not limited to friendships. The term denotes simply the love of a person, by which one has complaisance in the other person as good in himself and consequently wills goods for that person for that person's sake. At times Thomas designates this kind of love as "benevolent love" (*amor benevolentiae*). Friendship adds to simple benevolence the aspect of two persons having love of benevolence for each other. Precisely because benevolence forms the basis for friendship, however, it can be called *amor amicitiae*.<sup>38</sup> Nevertheless, as Thomas expressly states, a person has this love for himself; he has complaisance in himself and wills what is good for himself. Second, the love of concupiscence does not refer necessarily to love of those goods which are the object of the passion called concupiscence (*concupiscentia* or *desiderium*), i.e., sensible pleasures. As an aspect of *dilectio* or rational love, love of concupiscence is directed to all possible goods of the person, both sensible and spiritual. Moreover, it is not, as the term would suggest, directed only to goods which are absent; it is present both in the desire for the absent goods and in the delight or joy over the present goods.<sup>39</sup>

<sup>37</sup> On the unity of *amor amicitiae* and *amor concupiscentiae*, see Cajetan's commentary on *ST* 1-2.26.4 (Leonine edition 6:191).

<sup>38</sup> Thomas employs the following terms: *benevolentia*, *amor benevolentiae*, *amor amicitiae*, *amicitia*. *Benevolentia* denotes only a willing or wanting that someone have what is good for him (*ST* 2-2.27.2 c.). *Amor benevolentiae* and *amor amicitiae* both refer to a love of a person which implies, beyond simple *benevolentia*, an affective union with the person (*ST* 2-2.27.2 c.; *De div. nom.* 4.9 n.404; cf. *3 Sent.* d.28 a.6 c. and d.29 a.3 c.). *Amicitia* implies mutual *amor benevolentiae* or *amor amicitiae* which is recognized by both persons (*ST* 2-2.23.1 c.). This is what we normally call friendship. Our concern in this article is with the love of friendship itself, leaving aside the analysis of friendship which, in fact, is the usual context for such a love.

<sup>39</sup> See *ST* 1-2.25.2 ad 1. There are other distinctions which are not identical with that of *amor amicitiae* and *amor concupiscentiae*. a) Love of others vs. love of self. Love of friendship is found in *both* love of others and love of self; in both cases one loves a person and seeks the good for that person. b) Love of others for their own sake vs. love of others as good for oneself (i.e., two ways of loving others). One can indeed love others for their own sake, this being love of friendship, while one can also love others, insofar as they are good for one, with a love of concupiscence (e.g., loving a taxi driver). It is, nevertheless, also possible to love self with love of friendship or for a person to love someone with a love of concupiscence, not for himself, but rather for a third party for whom the person has a love of friendship (e.g., someone calls a taxi for his friend). Moreover, love of concupiscence can be directed to objects other than persons. c) Morally good love vs. morally deficient love. All acts of virtues and all acts of vice involve *both* love of concupiscence and love of friendship. For example, a thief loves himself or even his family

In the text cited above (ST 1-2.26.4), Thomas does not merely distinguish the modes of love but also ranks them, giving priority to the love of friendship. What is loved with a love of friendship is loved *simpliciter* and *per se*; it is loved for itself. This means that the *complacentia* in *amor amicitiae* is a being pleased by or, we might say, an affirmation of the good that is found in the other as good in itself. What is loved with a love of concupiscence, on the other hand, is not loved *simpliciter* nor *per se* but rather in reference to and in dependence upon that which is loved with a love of friendship. The love of concupiscence is, so to speak, derivative, and the good found in its objects is loved as the good of the person to whom they are referred.<sup>40</sup> Thus love of friendship is love simply, while love of concupiscence is love only *secundum quid*. In this respect the loved good can be compared to being; *ens simpliciter* (substance) is that being which has existence in itself, while *ens secundum quid* (accidents) is being that can exist only in another.<sup>41</sup>

The relation of good and being is, however, more than just a comparison. At times Thomas draws the distinction between the two modes of love precisely in terms of those goods that are subsistent beings as opposed to goods that are non-subsistent beings. Insofar as being and good convert, the distinction between subsisting and non-subsisting beings (substance and accidents) is reflected in the loved goods as well. Thus there are sub-

with love of friendship while he loves the stolen goods with love of concupiscence. d) Love of a *bonum honestum* vs. love of a useful or pleasant good (*bonum delectabile* or *bonum utile*). This has been suggested by B. Bujo, in his treatment of *amor amicitiae* and *amor concupiscentiae* (*Die Begründung des Sittlichen*, 153–61). The texts Bujo cites, however, point out only that in true or honest friendships the persons have *amor amicitiae* for one another, while in useful and pleasant friendships there is only *amor concupiscentiae*. In honest friendship, however, the basis of the friendship is said to be virtue and that which is sought for the other is also virtue, implying that the *bonum honestum* is virtue (see ST 2-2.145). Yet virtue, as a good of the person is loved with love of concupiscence (see the texts cited in n. 43 below). On the general distinction between *amor amicitiae* and *amor concupiscentiae*, see L.-B. Gillon, "Genèse de la théorie thomiste de l'amour," *Revue Thomiste* 46 (1946): 322–29, as well as Eberhard Schockenhoff, *Bonum hominis: Die anthropologischen und theologischen Grundlagen der Tugendethik des Thomas von Aquin* (Mainz, 1987), esp. 493–98.

<sup>40</sup> "Omne autem quod est per accidens reducitur ad id quod est per se. Sic igitur hoc ipsum quod aliquid amamus, ut eo alicui bene sit, includitur in amore illius quod amamus, ut ei bene sit" (*De div. nom.* 4.9 n.405).

<sup>41</sup> "Haec autem divisio est secundum prius et posterius. Nam id quod amatur amore amicitiae, simpliciter et per se amatur: quod autem amatur amore concupiscentiae, non simpliciter et secundum se amatur, sed amatur alteri. Sicut enim ens simpliciter est quod habet esse, ens autem secundum quid quod est in alio; ita bonum, quod convertitur cum ente, simpliciter quidem est quod ipsum habet bonitatem; quod autem est bonum alterius, est bonum secundum quid. Et per consequens amor quo amatur aliquid ut ei sit bonum, est amor simpliciter: amor autem quo amatur aliquid ut sit bonum alterius, est amor secundum quid" (ST 1-2.26.4 c.).

sisting goods which can be loved in themselves with a love of friendship, and also goods like health and knowledge which only inhere and are the good of that in which they inhere. Such inhering goods are loved, for their subsisting subject, with a love of concupiscence.<sup>42</sup>

This means that all the goods of the person that are *accidents* are loved with a love of concupiscence. They are not loved as that for which we will the good, but as goods for the person.<sup>43</sup> Among the goods of this sort mentioned by Thomas are health, knowledge, virtues, *dilectio*, and operations. These are formal perfections of the persons, and it is by them that the person achieves his perfection. Thus Thomas says that happiness (*beatitudo*) itself, insofar as it is an operation of the person, is loved with love of concupiscence, a point we shall discuss below. These accidents, which constitute the perfection of the person, are not the only objects of love of concupiscence, but they are the chief objects. All other objects are willed as means to these.<sup>44</sup> These other objects may be other subsisting objects like wine or books, and may even be other persons. Nevertheless, if what is loved in them is their usefulness for bringing about the formal perfections of persons, they are not loved in themselves and thus are objects of the love of concupiscence.<sup>45</sup> The objects of love of friendship are only what subsist, that is, substances. It is clear, moreover, that for Thomas only *rational substances* can be the objects of this love. All lower beings, irrational animals, plants, and non-living beings are properly loved with a love of concupiscence for the sake of rational beings.<sup>46</sup>

If we combine Thomas's distinction between *amor amicitiae* and *amor concupiscentiae* with his understanding of love as the first of the affections,

<sup>42</sup> "Respondeo dicendum quod, cum amor sit boni, bonum autem sit et in substantia et in accidente, ut patet in I *Ethic.*, dupliciter aliquid amatur: uno modo, ut bonum subsistens; alio modo, ut bonum accidentale sive inhaerens. Illud quidem amatur ut bonum subsistens, quod sic amatur ut ei aliquis velit bonum. Ut bonum vero accidentale seu inhaerens amatur id quod desideratur alteri: sicut amatur scientia, non ut ipsa sit bona, sed ut habeatur. Et hunc modum amoris quidam nominaverunt concupiscentiam: primum vero amicitiam" (*ST* 1.60.3 c.); cf. *De div. nom.* 4.9 n.404 and 4.10 n.428; 3 *Sent.* d.28 a.1 c.

<sup>43</sup> This point is made most clearly in Thomas's discussion of how virtue is loved: "Unde quod volumus virtutes et accidentia esse, hoc ad substantiam refertur quam volumus sub illis accidentibus esse vel bene esse habere" (3 *Sent.* d.28 a.1 c.; cf. *ST* 2-2.25.2 c.).

<sup>44</sup> 3 *Sent.* d.29 a.4 c.

<sup>45</sup> *De div. nom.* 4.9 n.405 and 4.10 n.429.

<sup>46</sup> See 3 *Sent.* d.28 a.2 c. and *ST* 2-2.25.3. The basic arguments here are the following. a) In love of friendship one wills goods for the other. But the irrational animals cannot, properly speaking, "have" goods, because they lack freedom and so lack the dominion by which one is said to "have" something. b) The animals are not capable of the *communicatio vitae* that is proper to friendship. Implied here is that love of friendship, while not itself friendship, is directed only to those beings capable of friendship.

we have an interesting picture of the moral life. The primacy of love as the most basic passion which causes all others applies also to the level of will and *dilectio*. At the end of his treatment of love, Thomas explicitly states that every act of every agent, being aimed at an end which is a good, is caused by love.<sup>47</sup> Moral action, insofar as it is rational, proceeds from the rational love which is *dilectio*. Within *dilectio*, the love of friendship has priority over the love of concupiscence, and its objects are loved per se. These objects are persons. Thus the end of all moral action for all moral agents is always a person or persons; the moral life consists in seeking the perfection of persons. Morally good activity consists in an ordered pursuit of perfection, i.e., the proper goods for the proper persons, while morally bad activity is the opposite. Thus the moral universe, so to speak, consists primarily of persons and their perfections; all else is ordered to them.<sup>48</sup>

#### D. The Natural Inclination to Beatitude as Self-Love

As we saw in section I, there is in each person a natural desire for happiness or fulfillment. Each person is inclined, prior to all choice, to seek that which will perfect him, that which will satisfy all his desires. Strictly speaking, the object of this inclination is a general formality—that which will fully perfect the person—but in light of it are chosen all the particular goods that constitute one's perfection. How should we then, in light of the distinction between love of friendship and love of concupiscence, describe this natural inclination? In the first place, there is a love of friendship for oneself. One loves oneself precisely as a subsisting person for whom goods are desired, i.e., as the object of an *amor amicitiae*. In the second place, happiness or fulfillment is loved as a good for the person, and this is to be an object of *amor concupiscentiae*. Happiness, whether considered only on the level of a general formality or as some specific instantiation, is not a subsisting person but the perfection of a person. As such it can only be an accident; this corresponds to Thomas's general view that the perfection of all created beings, including human beings, is always ontologically an acci-

<sup>47</sup> *ST* 1-2.28.6 c. This article addresses the question, "Utrum amor sit causa omnium quae amans agit." The reply is as significant as it is brief: "Respondeo dicendum quod omne agens agit propter finem aliquem, ut supra [*ST* 1-2.1.2] dictum est. Finis autem est bonum desideratum et amatum unicuique. Unde manifestum est quod omne agens, quodcumque sit, agit quaecumque actionem ex aliquo amore." See also *ST* 1-2.28.6 ad 2: "Unde omnis actio quae procedit ex quacumque passione, procedit etiam ex amore, sicut ex prima causa."

<sup>48</sup> See, e.g., *ST* 1-2.73.9 c.: "Fines autem principales humanorum actuum sunt Deus, ipse homo, et proximus: quidquid enim facimus, propter aliquod horum facimus; quamvis etiam horum trium unum sub altero ordinetur."

dent.<sup>49</sup> Thus both prongs of *dilectio* are present here; a love of friendship for the self and a love of concupiscence for happiness which is willed as good for the self.

In Thomas's best known treatments of human happiness, *Summa theologiae, Prima secundae* (qq.1–5) and *Summa contra gentiles*, bk. 3 (chaps. 25–63), he does not express the natural desire in terms of love, although the doctrine can clearly be so expressed. Normally he takes for granted that the person loved is the self; what is emphasized is the good, happiness, that is loved for the person. Hence the focus of attention is on the love of concupiscence. Only in other discussions of happiness, especially that of the angels, is the notion of love expressly introduced. The angels love themselves both with a natural love (*amor vel dilectio naturalis*) and with an elective love (*dilectio electiva*).<sup>50</sup> Thomas introduces the distinction between *amor amicitiae* and *amor concupiscentiae*, in order to show that the angels' natural inclination, the *dilectio naturalis*, is a self-love. Just as beings without cognition naturally desire that which is good for them, so too the angels and men naturally desire their own good and their own perfection. The angels and human beings love themselves naturally with an *amor amicitiae* and love the good of their perfection with a natural *amor concupiscentiae*, and these together make up the will's natural inclination to beatitude.<sup>51</sup>

In the discussion of human happiness in the *Prima secundae*, there is a short but significant reference to the distinct loves. An objection is raised in order to show that the good by which we are happy (*finis cuius*) must be a good of the soul: we love more the person for whom we will a good than the good we will for that person; given that whatever good a person may will, he wills for himself, it follows that he loves himself more than all other goods. Since, however, beatitude is what is most loved (*quod maxime amatur*), the good that constitutes beatitude must be a good in the person, specifically one in the soul. Here the structure of *amor amicitiae* and *amor concupiscentiae* is clearly visible. Thomas replies that when we here say that beatitude is what is most loved we are taking it as the object of love of concupiscence (*tanquam bonum concupitum*), and this is distinct from the

<sup>49</sup> *ST* 1.5.1 ad 1.

<sup>50</sup> *ST* 1.60.1–3.

<sup>51</sup> "Manifestum est autem quod in rebus cognitione carentibus, unumquodque naturaliter appetit consequi id quod est sibi bonum; sicut ignis locum sursum. Unde et angelus et homo naturaliter appetunt suum bonum et suam perfectionem. Et hoc est amare seipsum. Unde naturaliter tam angelus quam homo diligit seipsum, inquantum aliquod bonum naturali appetitu sibi desiderat" (*ST* 1.60.3 c.). For the first part of the text, see n. 42 above. Cf. *ST* 1.60.4 ad 3 (see n. 70 below).

love we have for a friend for whom we will the good. Since the loves are not the same, the objection's conclusion does not follow.<sup>52</sup> In other words, it is true that we love ourselves more than our happiness: this corresponds to the very structure of *dilectio* in which the love of friendship is prior to the love of concupiscence. But since happiness is the *maxime amatum* only as an object of love of concupiscence, it does not follow that it must be the same as the person most loved with a love of friendship. Moreover, as Thomas points out, it is here an open question whether a person loves himself most of all *with a love of friendship*. The natural desire for happiness is directed to what is perfective of the individual himself; yet it may be that loving another person more than self is perfective of self. This question leads us to look more closely at *amor amicitiae*.

If then, as we saw in the first section, the natural inclination to happiness is the source of all other acts of the will, and if the natural inclination of the will is a love of self, we must somehow see the love of others for their own sake, that is, the love of others with *amor amicitiae*, as arising from our self-love. And if it is possible to love another person more than self, this too will have to arise on the basis of this most fundamental love. To this end, we must see how Thomas understands the love of friendship one has for others and how this love is generated.

### III. LOVE OF OTHERS AS AN EXTENSION OF SELF-LOVE

#### A. *Amor amicitiae*: Union, Mutual Inhesion, and *extasis*

In order to understand how the love of friendship for others arises from self-love, we must look more closely at *amor amicitiae* itself. We can do this by clarifying three key elements of it: union, *mutua inhaesio*, and *extasis*.

<sup>52</sup> The objection and reply are the following: "Practerea, illud cui appetimus aliquod bonum, magis amamus quam bonum quod ei appetimus: sicut magis amamus amicum cui appetimus pecuniam, quam pecuniam. Sed unusquisque quodcumque bonum sibi appetit. Ergo seipsum amat magis quam omnia alia bona. Sed beatitudo est quid maxime amatur: quod patet ex hoc quod propter ipsam omnia alia amantur et desiderantur. Ergo beatitudo consistit in aliquo bono ipsius hominis. Sed non in bonis corporis. Ergo in bonis animae. . . . Ad secundum dicendum, quantum ad propositum pertinet, quod beatitudo maxime amatur tanquam bonum concupitum: amicus autem amatur tanquam id cui concupiscitur bonum; et sic etiam homo amat seipsum. Unde non est eadem ratio amoris utrobique. Utrum autem amore amicitiae aliquid homo supra se amet, erit locus considerandi cum de caritate agetur" (*ST* 1-2.2.7 ad 2). For other references to *beatitudo* as object of *amor concupiscentiae*, see *3 Sent.* d.29 a.4 c. (n. 112 below); *ST* 2-2.25.2 c. (n. 109 below).

Thomas holds that love causes two kinds of union, of which one is the love itself, while the other is a consequence of the love. The first union consists in the very *coaptatio* or *complacentia* of the appetite in the loved object. As we saw above, when the object is grasped cognitively, it works a change in the person's affective powers, such that there arises a proportion between the affection and the object; by virtue of this proportion we now relate affectively to the object as to our good. Viewed simply as an adaptation of the appetite to the good, the change is termed *coaptatio*, viewed psychologically, *complacentia*. The object "enters into" the affection or appetition and "informs" it, in a way that calls to mind Thomas's theory of how a species informs a knowing power and makes it to be in a state of actually knowing.<sup>53</sup> The appetite's adaptation to the object is a kind of union between the two, insofar as the loved object exists in the appetite. Thus, Thomas says, love causes union of this sort formally (*formaliter*) by *being* this union.<sup>54</sup>

Union of this sort constitutes both *amor amicitiae* and *amor concupiscentiae*. The union differs, however, in the two loves, in accordance with the way the *complacentia* differs. For example, on hearing a book described, I can begin to have complaisance in it and to see it as a good for me. This is a love of concupiscence. I take complaisance in the book, but I do so precisely as in that by which I individually will be somehow better. The book is a means to my perfection and so loved with a love of concupiscence. The object enters into my affection causing the union that is love, but does so as that which is ordered to my perfection.<sup>55</sup>

In *amor amicitiae*, the object which enters into or informs the affections is another person. And here the other person is not taken as some formal perfection of me (or of another person) nor as a means to such a perfection. It is indeed possible to have complaisance in another person in this fashion; that is to love the person with a love of concupiscence. In love of friendship, in contrast, I take complaisance in the other person as my

<sup>53</sup> As Simonin points out ("Autour de la solution thomiste," 179–84), in his early works, especially in the *Sentences* commentary, Thomas refers to love as a *formatio* or *transformatio* or *informatio* in the appetite. For example, 3 *Sent.* d.27 q.1 a.1 c.: "Unde amor nihil aliud est quam quaedam transformatio affectus in rem amatum."

<sup>54</sup> "Respondeo dicendum quod duplex est unio amantis ad amatum. Una quidem secundum rem: puta cum amatum praesentialiter adest amanti.—Alia vero secundum affectum. . . . Primam ergo unionem amor facit effective: quia movet ad desiderandum et quaerendum praesentiam amati, quasi sibi convenientis et ad se pertinentis. Secundam autem unionem facit formaliter: quia ipse amor est talis unio vel nexus" (*ST* 1-2.28.1 c.).

<sup>55</sup> "Cum autem sit duplex amor, scilicet concupiscentiae et amicitiae, uterque procedit ex quadam apprehensione unitatis amati ad amantem. Cum enim aliquis amat aliquid quasi concupiscens illud, apprehendit illud quasi pertinens ad suum bene esse" (*ibid.*).

good, not as a perfection of me nor as contributing to my perfection as an individual subsisting person, but rather as a good for which I desire and seek other, perfective goods. I take the other as one for whom I wish goods, in the same way that I wish goods for myself. This means that I take complaisance in the other in a way that is like the way I take complaisance in myself. To so love a person, says Thomas, is to take the other as another self.<sup>56</sup>

It is clear here that the love of friendship for others always implies a corresponding love of concupiscence. The complaisance in the other leads immediately to a desire for the goods that will perfect the other (*benevolentia*) as well as the active pursuit of those goods (*beneficentia*) according to the mode of love in question. This love of concupiscence, however, is subordinate to the love of friendship, for as Thomas remarks in commenting on the *De divinis nominibus* of Dionysius, all that is *per accidens* is reduced to what is *per se*, and thus love of friendship which is love *per se* includes love of concupiscence, which is love *per accidens*.<sup>57</sup> In addition, and more importantly, Thomas has in mind more than a mere formal similarity in the modes of loving. He does not mean simply that just as I am a person for whom and for whose sake I will goods, so too the other is a person for whom and for whose sake I will goods. Such *benevolentia* is, of course, an integral part of the love of friendship. But *dilectio* includes beyond that a unity of *affections*, such that I take the good of the other as pertaining to *my* good, and that means that I take the other as pertaining to my own self, an extension, as it were, of me.<sup>58</sup> Here the *complacentia* that gives rise to the desire for the good of the other is a complaisance in the other as a *part of my good*, such that in willing the good for the other, I will that good *as good for me*.

The second kind of union is caused by love not formally but effectively (*effective*), as something brought about by love. This is *real* union. As we saw earlier, the immediate effect of the *complacentia* is a tendency toward

<sup>56</sup> "Similiter cum aliquis amat aliquem amore amicitiae, vult ei bonum sicut et sibi vult bonum; unde apprehendit eum ut alterum se, inquantum scilicet vult ei bonum sicut et sibi ipsi" (ibid.); cf. *ST* 1-2.28.1 ad 2: "... unio secundum coaptationem affectus ... assimilatur unioni substantiali, inquantum amans se habet ad amatum, in amore quidem amicitiae, ut ad seipsum; in amore autem concupiscentiae, ut ad aliquid sui."

<sup>57</sup> *De div. nom.* 4.9 n.405 (see n. 40 above).

<sup>58</sup> See nn. 61–62 below. For a discussion of *amor amicitiae* as an extension of self, see Klaus Hedwig, "Alter ipse. Über die Rezeption eines Aristotelischen Begriffes bei Thomas von Aquin," *Archiv für Geschichte der Philosophie* 72 (1990): 253–74. For a more general treatment of Thomas's theory of love and friendship as well as its sources, see James McEvoy, "Amitié, attirance et amour chez S. Thomas d'Aquin," *Revue philosophique de Louvain* 91 (1993): 383–408.

union with the loved object. If that union is not yet effected, if the object is absent, then the lover *desires* this union; if the union is effected, then the lover *rejoices* or *delights* in the object. Hence, upon hearing about the book and loving it as something contributing to my well-being, I desire to read it (reading being the book's form of presence). For incidental reasons I may not do so, yet the desire remains. Here, in the case of love of concupiscence, I want ultimately the real, perfective modification of my being (or that of my friend). In *amor amicitiae* there is also a desire for the presence of the person loved if he is not present as well as joy when the person is present.<sup>59</sup> The manner of presence varies in different kinds of friendships, yet always includes physical presence with the opportunity actually to see the other and talk with the other.<sup>60</sup> We shall discuss the significance of this desire for union below.

The union of the first kind by which the loved person is a "part," so to speak, of the lover is more fully expressed in terms of a mutual inherence (*mutual inhaesio*) of the lover and the beloved in one another. There is, of course, a kind of inherence on the level of *knowledge* insofar as the loved object must exist cognitively in the lover in order to be loved, yet the pertinent union here is one of *affections*. The loved person is said to inhere in the lover because the lover has complaisance in the person, for, as we saw above, the loved person exists in the appetite of the lover by formally determining it. The loved person is, moreover, the object of the immediately following motions of desire and joy, such that the lover desires and rejoices in the presence both of the loved person himself (*amor amicitiae*) and of the goods which perfect that person (*amor concupiscentiae*). The lover, says Thomas, wills these perfecting goods for the other's sake, and not for any further good beyond the good of the other which the lover might gain for himself. That is to say, he wills the goods for the loved person as if willing them for himself, as though, says Thomas, he considers the friend the same as himself (*quasi reputans amicum idem sibi*).<sup>61</sup>

Moving in the opposite direction, the lover is said to inhere in the beloved insofar as he, the lover, considers the goods and evils of the one

<sup>59</sup> *ST* 1-2.28.1 c. (see n. 56 above).

<sup>60</sup> *ST* 1-2.28.1 ad 2.

<sup>61</sup> "Sed quantum ad vim appetitivam, amatum dicitur esse in amante, prout est per quandam complacentiam in eius affectu: ut vel delectetur in eo, aut in bonis eius, apud praesentiam; vel in absentia, per desiderium tendat in ipsum amatum per amorem concupiscentiae; vel in bona quae vult amato, per amorem amicitiae; non quidem ex aliqua extrinseca causa, sicut cum aliquis desiderat aliquid propter alterum, vel cum aliquis vult bonum alteri propter aliquid aliud; sed propter complacentiam amati interius radicatam. . . . In quantum . . . vult et agit propter amicum sicut propter seipsum, quasi reputans amicum idem sibi, sic amatum est in amante" (*ST* 1-2.28.2 c.).

loved as his own and also considers the will of the other as his own. Accordingly, he himself seems, in a way, to suffer goods and evils *in* his friend. Hence, concludes Thomas, to the extent that the lover looks upon what pertains to the loved person as his own (*sua*), he seems to be in the friend and to be made the same as the loved person (*quasi idem factus amato*).<sup>62</sup> As an example of these two kinds of union, we might look to ordinary family relationships, in which members of a family grieve and rejoice over the evils and goods that befall the others and stand ready to help the others to the extent possible. Each considers the good of the other members of the family to be a part of his own good.

To portray the love of friendship only in terms of union, however, is incomplete. Following Dionysius, Thomas also characterizes this love as an *extasis*, a going out of the self. This, he maintains, occurs in both kinds of love, but most properly in the love of friendship. In love of concupiscence, there is indeed a motion of the appetite to a good outside the person who loves; e.g., I desire to have the bottle of wine. But because I will the wine for myself, this is *extasis* only *secundum quid*. My *affectus* go out to the thing, but by its *intentio*, it returns back to me and does not remain outside.<sup>63</sup> *Amor amicitiae* in contrast remains outside. When I love the other person with true love of friendship there is no return back to self. Rather, my complaisance rests in the good I see in that person, and I desire goods for that person without seeing or intending them as contributing to my own individual good. This is *extasis simpliciter*.<sup>64</sup>

In the characterization of *amor amicitiae* as *extasis*, we have Thomas's strongest expression of its "selfless" or "disinterested" character. As we

<sup>62</sup> "In amore vero amicitiae, amans est in amato, inquantum reputat bona vel mala amici sicut sua, et voluntatem amici sicut suam, ut quasi ipse in suo amico videatur bona vel mala pati, et affici. Et propter hoc, proprium est amicorum *eadem velle, et in eodem tritari et gaudere*, secundum Philosophum, in IX *Ethic.* et in II *Rhetic.* Ut sic, inquantum quae sunt amici aestimat sua, amans videatur esse in amato, quasi idem factus amato" (ibid.).

<sup>63</sup> "... nam in secundo modo amoris [amoris concupiscentiae], affectus amantis trahitur ad rem amatam per actum voluntatis, sed per intentionem, affectus recurrit in seipsum; dum enim appetito iustitiam vel vinum, affectus quidem meus inclinatur in alterum horum, sed tamen recurrit in seipsum, quia sic fertur in praedicta ut per ea bonum sit ei; unde talis amor non ponit amantem extra se, quantum ad finem intentionis" (*De div. nom.* 4.10 n.430).

<sup>64</sup> "Secundum appetitivam vero partem dicitur aliquis extasim pati, quando appetitus alicuius in alterum fertur, exiens quodammodo extra seipsum. . . . Sed secundum extasim facit amor directe: simpliciter quidem amor amicitiae; amor autem concupiscentiae non simpliciter, sed secundum quid. Nam in amore concupiscentiae, quodammodo fertur amans extra seipsum: inquantum scilicet, non contentus gaudere de bono quod habet, quaerit frui aliquo extra se. Sed quia illud extrinsecum bonum quaerit sibi habere, non exit simpliciter extra se, sed talis affectio in fine infra ipsum concluditur. Sed in amore amicitiae, affectus alicuius simpliciter exit extra se: quia vult amico bonum, et operatur, quasi gerens curam et providentiam ipsius, propter ipsum amicum" (*ST* 1-2.28.3 c.); cf. *ST* 1-2.28.2 c. and 1-2.26.4 ad 3; 3 *Sent.* d.29 a.4 c.

shall see, there is not in Thomas's thought, a "pure" love for others, even for God, such that the lover would be no better for the love, nor even such that the lover should want nothing for himself from the love. Nevertheless, there is what we can call "other-directed" love, and this corresponds to what is generally termed "selfless love," "unegoistical love," or "disinterested love." For Thomas the key element here is the *intention* of the love. If the other is taken as good insofar as he will serve to bring about a perfection in the lover as an individual distinct from the person loved, then the intention of the lover returns to himself and the love is one of concupiscence. If the intention does not so return, if the other is taken as good in himself and only thus seen as the good of the lover, and if consequently the other is taken as an object of benevolence for his own sake, we have an other-directed intention. This is the intention of *amor amicitiae* seen as *extasis*.

There is a certain tension at the heart of *amor amicitiae* which comes to the fore when we place the notion of *inhaesio* alongside that of *extasis*. These seem in effect to move in opposing directions. As characterized by mutual inhesion, love seems to be precisely a movement toward overcoming the otherness of the other. To say that I inhere in the beloved and the beloved in me the lover, is to say that I see myself as one with the beloved; the beloved is, as it were, a part of me, or perhaps better, an extension of me, such that I consider what happens to the beloved, both good and bad, as happening to me and I seek his good as I seek my own. Thomas expresses this point when he distinguishes the relation that obtains in the case of justice from that in the case of love. Justice is found precisely among those who take one another *as other*; to the extent that this otherness is overcome, to that extent the full *ratio iustitiae*, the essential structure of justice, is missing. Accordingly, Thomas maintains that in the strict sense there cannot be justice among members of a family, precisely because the requisite otherness is lacking.<sup>65</sup> Justice enters only when they cease treating one another as family; this is reflected in the particular pain which accompanies law suits between family members. Thus *inhaesio* points to the union between the two worked by the love. I love the other, but this means that I cease to take the other as other and begin to take the other as an extension of me.

*Extasis*, in contrast, points to a going outside of self. Here, precisely, the otherness of the other is highlighted. I can go outside of myself only to the

<sup>65</sup> See *ST* 2-2.57.4 and 2-2.58.2; *Sententiae quinti libri Ethicorum* (*Sent. 5 Ethic.*), lect. 11 (Leonine edition 47.2:301-2, ll. 160-205); *Sent. 8 Ethic.*, lect. 1 (Leonine edition 47.2:443, ll. 94-103).

extent to which the object of my affections is neither I myself nor something in me. In this sense, the love I have for myself is a love of benevolence, but one without *extasis*. Only the love of benevolence for others, a love that does not come back to me by way of intention but remains fixed in the other, gives rise to *extasis simpliciter*. The other-directedness expressed by *extasis* seems almost to preclude the possibility that in loving the other I am loving my own good.

This tension is relieved, to a degree, by the recognition that there are distinct points of view, different modes of considering the love, functioning here. When we speak of *extasis*, we are taking the two persons, the lover and the beloved, as distinct subsisting beings. *Ontologically* they are distinct substances, each with its own *actus essendi*. So considered, the other is always other, even when they are together; the being together of human beings does not eliminate their otherness as distinct beings. Seen ontologically then, the love for another person is always ecstatic, a going out of self. Nevertheless, on the level of *affections*, that is to say, on the level of one's appetitive or affective stance toward the other and the goods belonging to him, the effect of love is one of union. As already explained, I am affectively related to the other in a way similar to my affective relation to myself, such that I do not take the other as other but rather as pertaining to me. The goods and evils of the other are my goods and my evils. This affective union does not remove the ontological distinctness. To use Thomas's terms, *unitas affectus* is not the same as *unitas naturalis*.<sup>66</sup>

It is precisely this interplay of affective union and ontological otherness that constitutes what we could call the paradox of *amor amicitiae*. The motion to overcome otherness, the affective union, does not merely leave the ontological otherness intact but actually depends upon it. I can love the other as myself only if the other is not myself. But more importantly, I love the other as good for me precisely because of the good that the other has in himself without it first being referred to me. In love of concupiscence, the object is taken as good, not in itself, but *only* in reference to me; its goodness consists solely in its contribution to my well-being. In love of friendship, in contrast, I take the other person as somehow good in himself or herself, and *for this reason* as a good for me. The affective

<sup>66</sup> See *Sent. 9 Ethic.*, lect. 11: "Deinde cum dicit: *Ut autem ad se ipsum* etc., ostendit ex praemissis quid sit virtuoso et felici eligibile et delectabile respectu amici. Et dicit quod virtuosus ita se habet ad amicum sicut ad se ipsum, quia amicus quodam modo est alter ipse; sicut igitur unicuique virtuoso est eligibile et delectabile quod ipse sit, sic est ei eligibile et delectabile quod amicus sit, et si non aequaliter, tamen propinque; maior est enim unitas naturalis quae est alicuius ad se ipsum quam unitas affectus quae est ad amicum" (Leonine edition 47.2:540, ll. 114–23). Cf. *3 Sent.* d.29 a.3 ad 1: "... amor non est unio ipsarum rerum essentialiter, sed affectuum."

extension of self can only be that, an extension, if the goodness of the other is not reduced to my goodness, as occurs in *amor concupiscentiae*, but rather is a good other than the good I have in my own individual subsisting self. For this, obviously, the other must be other. In the complacency of *amor amicitiae*, I “appropriate” this other good and make it mine. And corresponding to the fact that the basis for this appropriation is the good which is in the other himself, I relate to the other with benevolence; I wish to foster the good of the other as a good in its own right just as I do for myself. This is the other-directed intention of *amor amicitiae*. Thus, paradoxically, it is the good of the other *as other* that I take to be mine; yet affectively I take the other’s good as mine, I take it into myself. This is the paradox of *amor amicitiae* that is expressed when such love is characterized simultaneously as *mutua inhaesio* and as *extasis*.<sup>67</sup>

It is now clear that when Thomas teaches that the object of love is always one’s own good (*bonum suum*), the term “one’s good” is not to be taken only in an “acquisitive” sense, as if one loved exclusively what contributed to one’s own individual perfection. “One’s good” includes, in addition, the others whom one loves with love of friendship as well as their perfections. As we saw above, the will’s formal object, the good in general, allows a person to love goods other than self and not simply as means to one’s individual self-perfection.<sup>68</sup> The person can take as his good what is good in itself and love it as good in itself and take it as his good precisely insofar as it is a good in itself. One must resist the temptation to understand *bonum suum* only in the sense of being an object of *amor concupiscentiae*.

### B. Self-Love as the Source of Love of Friendship for Others

Having seen the structure of love of friendship, we must now ask how it arises from the natural inclination to beatitude which is the source of every other act of the will. How is it that love of self gives rise to love of others?<sup>69</sup>

<sup>67</sup> The following text from Thomas’s commentary on Aristotle’s *Nicomachean Ethics* is pertinent here: “Sed ipse [Aristoteles] respondet quod illi qui amant amicum amant id quod est bonum sibi ipsis. Nam, *quando ille qui est bonus in se est factus amicus alicui, fit etiam bonum amico suo et sic uterque, dum amat amicum, amat quod sibi bonum est et uterque retribuit aequale suo amico et quantum ad voluntatem, in quantum scilicet vult ei bonum, et quantum ad speciem voluntatis, in quantum scilicet vult ei bonum non sui, sed illius gratia; . . .*” (*Sent. 8 Ethic.*, lect. 5 (Leonine edition 47.2:458, ll. 127–35; emphasis added).

<sup>68</sup> See pp. 12–13 above.

<sup>69</sup> Thomas expressly accepts Aristotle’s position that self-love is the basis for love of others (*Nicomachean Ethics* 9.4). See, e.g., *ST* 2-2.25.4 c. (n. 89 below).

In the first place we have the extension of our natural love of concupiscence which is directed to those goods we desire for ourselves. This is extended to a love of concupiscence directed to the goods we desire for other persons whom we love with a love of friendship. Such an extension seems simple enough. First, the affective union by which we take the other as one with us belongs, as we have just seen, to the essence of love of friendship. In taking the other to be one with us, we take the other's good as our own. If, then, we have a natural inclination toward our own good, and if we take the good of the other as our own, it follows that we will naturally desire that the other person possess his good. That is to say, the natural inclination toward our own good will extend to whatever good we perceive as our own, including the good of all those united to us by a love of friendship. Second, beatitude designates the sum of a person's perfections and consequently is the ultimate object of the love of concupiscence; the natural inclination towards one's own good is, in its most complete form, precisely the inclination to beatitude. It follows, then, that in loving the good of those whom we take to be one with us, the good that we will love for them most of all will be beatitude. This love for the good of the other, moreover, will not remain simply at the level of affections. Just as we do not only desire goods for ourselves, but actually act to procure them, so too, will we act to procure the good of those we love with a love of friendship. Hence we can say that the natural love of concupiscence we have for our own happiness is the basis for the benevolence and beneficence we have toward others, i.e., the love of concupiscence by which we will what is good for them.<sup>70</sup>

This extension of *amor concupiscentiae*, however, presupposes the union of *amor amicitiae*. How are we to explain this union in terms of an extension of self-love? How does it come about that I take another person to be, as it were, an extension of me, and his good to be my own good? This does not seem to occur arbitrarily or randomly, without any intelligibility, and hence, without explanation. At the same time, it does not seem to be simply a question of absolute goodness, such that each person naturally loves most those who are absolutely, i.e., morally, better. For example, the love one has for members of one's family does not seem to be primarily a matter of moral goodness. This question is treated by Thomas in terms of unity. The unity here, however, is neither the affective unity

<sup>70</sup> *ST* 1.60.4 ad 3: "Ad tertium dicendum quod dilectio naturalis dicitur esse ipsius finis, non tanquam cui aliquis velit bonum; sed tanquam bonum quod quis vult sibi, et per consequens alii, inquantum est unum sibi." This replies to the objection that one angel cannot love another with *dilectio naturalis*, because the natural love is for the end and one angel is not the end of another.

which is love nor the real unity with the loved object which is the effect of love. Here there is a third kind of unity, one which precedes the love and which, when cognitively grasped, gives rise to love of friendship.<sup>71</sup> This underlying unity is not one of affections but is a real or formal unity—the lover and loved object must be somehow *really* one—which can be cognitively grasped. The question then is how it is that beings who are distinct subsisting beings can have a unity such that the good of one can be taken as the good of the other.<sup>72</sup>

Thomas's most comprehensive treatment of this particular question appears in his commentary on Dionysius's *De divinis nominibus*. There, speaking of *amor amicitiae*, he states that "since we love each thing that we love insofar as it is our good (*bonum nostrum*), there will be as many modes of love as there are modes in which something happens to be the good of someone."<sup>73</sup> He then lists four ways in which something can be the good of someone insofar as there is some kind of unity between them. First is self-love; each person is himself the good of himself and so loves himself. Second is the unity which comes through similitude; this is the mode in which we take other created persons to be one with us and so to be our good. The third and fourth modes arise within the relationship of a whole and its parts. Each part is a good for the whole to which it belongs; in this way a person loves his hand which is one with him precisely as being a part of him. The fourth mode is the opposed relation; the part belongs to the whole, and thus the good of the whole is the good of the part.<sup>74</sup> The third mode applies to our love for our bodies, God's love for creatures, and perhaps also the love of the ruler for the citizens. The fourth mode explains the love of the citizen for the common good, as well as the love of all created persons for God.<sup>75</sup> Insofar as our interest here centers on the

<sup>71</sup> These three kinds of union are clearly spelled out in *ST* 1-2.28.1 ad 2: "Ad secundum dicendum quod unio tripliciter se habet ad amorem. Quaedam enim unio est causa amoris. . . . Quaedam vero unio est essentialiter ipse amor. . . . Quaedam vero unio est effectus amoris."

<sup>72</sup> This principle appears clearly in the discussion of whether angels love other angels: *ST* 1.60.4 c. (see n. 78 below).

<sup>73</sup> "Et quia unumquodque amamus inquantum est bonum nostrum, oportet tot modis variare amorem, quot modis contingit aliquid esse bonum alicuius" (*De div. nom.* 4.9 n.406).

<sup>74</sup> "Quod quidem contingit quadrupliciter: uno modo, secundum quod aliquid est bonum suipsius et sic aliquid amat seipsum; alio modo, secundum quod aliquid per quamdam similitudinem est quasi unum alicui et sic aliquid amat id quod est sibi aequaliter coordinatum in aliquo ordine, sicut homo amat hominem alium eiusdem speciei et sicut civis amat concivem et sicut consanguineus, consanguineum; alio modo, aliquid est bonum alterius quia est aliquid eius, sicut manus est aliquid hominis et universaliter pars est aliquid totius; alio vero modo, secundum quod, e converso, totum est bonum partis: non enim est pars perfecta nisi in toto, unde naturaliter pars amat totum et exponitur pars sponte pro salute totius" (*ibid.*).

<sup>75</sup> *De div. nom.* 4.10 nn.431–36.

love we have for other persons, the second and fourth modes are of special importance.

Let us then consider the second mode of unity which, as just stated, is that of similitude. Thomas refers to similitude, along with the good and cognition, as a cause of love in general, and hence does not restrict it to the love of friendship.<sup>76</sup> In love of concupiscence the pertinent similitude is that which is found between what is in potency and the actualization of that potency. Potency as such is said to have a similitude to its corresponding act, insofar as it denotes a determinate ordination to that act. Thus in the love of concupiscence, what is loved is precisely that which is an actualization—a perfection—of a person. The person who is in potency to the perfection is in this way similar to the perfection, and precisely this similarity gives rise to the love.<sup>77</sup>

In love of friendship, in contrast, a similarity exists between two things, persons, both of which possess, in act, some one form. The form is one not numerically but specifically and thus gives rise to a likeness between any two things that participate in it. There can be as many similarities of this sort as there are formal perfections which can be participated in by more than one individual. Accordingly, Thomas speaks of many different kinds of similitude. In the first place, he distinguishes between those similitudes which arise naturally and those which arise by choice. Among the natural similarities he usually points to our shared human nature and also to consanguinity, which is always based on a shared descent from a common ancestor. The love arising on the basis of such similarities is called *dilectio naturalis*. Among the similarities that arise from choice, Thomas usually mentions that of shared citizenship, although he also at times points to such things as fellow travelers, soldiers who share their profession, or students who share their studies. The love based on these is not called natural.<sup>78</sup>

<sup>76</sup> Some statements of the universality of similitude as a cause of love are the following: "amoris radix, per se loquendo, est similitudo amati ad amantem" (3 *Sent.* d.27 q.1 a.1 ad 3); "amor ex similitudine causatur" (ibid. q.2 a.2 ad 4); "similitudo est principium amandi" (*ST* 1.27.4 ad 2); "similitudo, proprie loquendo, est causa amoris" (*ST* 1-2.27.3 c.). On this point, see Simonin, "Autour de la solution thomiste," 257–62. What Thomas here calls *similitudo* seems to be what is also expressed by the notions of *propinquitas* and *coniunctio* in his discussion of the order of charity in *ST* 2-2.26, especially aa.6–7.

<sup>77</sup> *ST* 1-2.27.3 c.

<sup>78</sup> *ST* 1.60.4 c.: "... angelus et homo naturaliter seipsum diligit. Illud autem quod est unum cum aliquo, est ipsummet: unde unumquodque diligit id quod est unum sibi. Et si quidem sit unum sibi unione naturali, diligit illud dilectione naturali; si vero sit unum secum unione non naturali, diligit ipsum dilectione non naturali. Sicut homo diligit civem suum dilectione politicae virtutis; consanguineum autem suum dilectione naturali, inquantum est unum cum eo in principio generationis naturalis." For Thomas's other examples of similitude, see *ST* 1-2.27.3, 2-2.23.5, and 2-2.26.7–8; *Sent.* 8 *Ethic.*, lect. 12 (Leonine edition 47.2:485, ll. 20–28).

As Simonin has pointed out, the notion of similarity that underlies love of friendship is understood very widely by Aquinas.<sup>79</sup> For example, he raises an objection to his position based on Augustine's observation that it is possible to love in another what one does not want for oneself, as when someone loves an actor without wanting to be one. In reply, he says that even when one person does not want for himself what he loves in the other, there can still be a *similitude of proportion*. Thus the good singer sees a similarity in the good writer because he stands to his singing skill in the same way that the writer does to his writing skill.<sup>80</sup> Likewise, Thomas explains the love which even non-virtuous persons have for the virtuous by the fact that the non-virtuous possess in seminal form (in reason) the virtues that the virtuous possess fully developed. This likeness suffices to cause the non-virtuous to love the virtuous.<sup>81</sup>

It appears, then, that any similarity can be the basis on which a love of friendship may arise, although the kind of love (e.g., what sort of benevolence and beneficence is exercised toward the loved person) and the intensity of the love will vary according to the nature and degree of similarity. At the lowest level is the similarity that depends upon the shared species. From this similitude arises the natural love and natural benevolence one has toward all other human beings.<sup>82</sup> The more intense loves directed to particular persons presuppose this basic similarity and add to it similarities such as consanguinity or virtue or profession or simply some shared activity. Insofar as there is a higher degree of similarity, the love for these persons that arises is more intense and leads to a higher degree of benevolence and beneficence. Thomas is aware, of course, that at times similarity is the basis for disliking another person, and he regularly refers to the saying cited by Aristotle that "potter contends with potter."<sup>83</sup> Nevertheless, he maintains that it is only *per accidens* that the similarity has this effect. When a person loves himself more than the other, and his similarity to the other (e.g., to a competitor) hinders the acquisition of a good he desires for himself, such similarity will cause him to dislike the other. In itself the similarity would give rise to love and benevolence; only because it

<sup>79</sup> Simonin, "Autour de la solution thomiste," 250–51.

<sup>80</sup> *ST* 1-2.27.3 ad 2.

<sup>81</sup> *ST* 1-2.27.3 ad 4.

<sup>82</sup> *ST* 1-2.27.3 c.; also *Sent. 8 Ethic.*, lect. 1 (Leonine edition 47.2:443, ll. 62–80): "... maxime est naturalis amicitia illa quae est omnium hominum ad invicem propter similitudinem naturae speciei" (ll. 70–72). Cf. *SCG* 3.117 (*Praeterea*).

<sup>83</sup> *Nicomachean Ethics* 8.1 (1155a35–b1).

happens to impede one's own good does it become a source of dislike.<sup>84</sup> By itself similarity, when perceived, gives rise to a love for the other person, as normally occurs, for example, in the discovery of a previously unknown relative.

The recognition of similitude as the basis for love enables Thomas to explain why it is that the "selection" of those we love is neither wholly random nor simply a matter of the goodness of the others taken absolutely, such that we love those more who are better. We tend to love those who are in one degree or another like ourselves. For example, it may be by chance that I have the colleagues that I have, but it is not by chance that I should be inclined to love them with a benevolent love more than I would strangers. This finds expression in Thomas's view that the order of charity has two poles: *propinquitias* to the lover, which corresponds to similitude, and *propinquitias* to God, which is the measure of a person's "objective" or absolute goodness.<sup>85</sup>

More importantly, for our purposes, the doctrine of similitude enables Thomas to explain how the love of friendship for others is an extension of self-love. To say that I love those who are like me means that in loving them I am loving the same good, at least specifically, that I love when I love myself. Precisely that which I find lovable in me, I find lovable in the other. In his *Sentences* commentary, Thomas points out that similarity can fail to be a source of love, not only when it implies competition, but also in those cases in which a person does not love in himself the quality or trait by which he is similar to the other. For example, normally we tend to be well-disposed to a person when we discover that he comes from the same city as we do. But if one were to consider one's origins in that city as something negative, one would not on that basis be attracted to the other, but rather the opposite.<sup>86</sup> Here we see the link between the similar and the good: it is precisely when we see in the other goods similar to our own (taking similitude in the broad sense explained above) that we affectively can take the other as another self.<sup>87</sup> We are able to extend the love we have for ourselves to the other because we can love in the other the same good that we love in ourselves. If the other were, *per impossibile*, in no way

<sup>84</sup> *ST* 1-2.27.3 c.; Thomas expressly answers the question raised by Aristotle of whether similitude is the cause of love or of hate: "Est autem veritas quaestionis quod simile per se loquendo est amabile, habetur autem odio per accidens, in quantum scilicet est impeditivum proprii bonum" (*Sent. 8 Ethic.*, lect. 1 [Leonine edition 47.2:444, ll. 133-36]).

<sup>85</sup> See *ST* 2-2.26 on the *ordo caritatis*, especially aa.6-11.

<sup>86</sup> *3 Sent.* d.27 q.1 a.1 ad 3.

<sup>87</sup> *3 Sent.* d.29 a.6 c.: "... proximos diligimus, in quantum in eis bonum nostrum per similitudinem invenitur, loquendo de amore benevolentiae."

like ourselves, there would be no basis for loving him. Thus I affectively take the other as *my* good because, by way of similitude, the other is already my good. This is the real union arising from shared formal perfections that causes the union of affection which is the love itself.

Since the love of others is an extension or derivation from the love of self, Thomas maintains that the love of self is always greater than the love of others. This does not mean that the others are loved as means to the lover's own perfection—this would be *amor concupiscentiae* and not *amor amicitiae*—but that the lover always wants a greater good for himself than for the loved person and desires his own good more intensely than that of the other.<sup>88</sup> The basis for this lies in the distinction between unity and union. Unity is a greater oneness than union, since union still implies a two. Thus, since each person is substantially one, i.e., possesses unity, and is joined to others only by the union of similitude, the love of self is prior to and stronger than the love of others.<sup>89</sup> Consequently, when it is said that the friend loves the other as (*sicut*) another self, this does not refer to the degree of the love, but rather to its mode: we will goods for the sake of the other just as we do for ourselves.<sup>90</sup> Even in the beatific vision, says

<sup>88</sup> For the distinction among degrees of love in terms of the good willed for the loved person and of intensity of the love, see *ST* 2-2.26.6–8. Thomas maintains that, in this life at least, each person loves himself more in both respects (a.4). Thus in doing good for the other, the lover himself gains the good of the virtuous deed, which is a greater good than that done for the other person (a.4 ad 2). So too, it is improper for a person to sacrifice his own spiritual good for that of another person (a.4 c.). Intensity should be understood as that difference in the love which is manifested in beneficence, i.e., in the degrees of the lover's readiness to seek the good of a person (called by Thomas the *conatus in agendo*; *3 Sent.* d.29 a.2 ad 3). Thus in an emergency one will help one's own child before giving the same help to a stranger's child; the good is the same, but the love for one's own child is more intense than the love for the stranger's child. So too, a person will procure lesser goods for a person loved more intensely rather than greater goods for someone else. In the case of love of self, the greater intensity must be understood in conjunction with the distinction between one's spiritual self and one's sensible self. According to Thomas (following Aristotle) proper self-love always seeks the higher, spiritual goods more intensely for self (*3 Sent.* d.29 a.5 c.; *ST* 2-2.25.4 ad 3).

<sup>89</sup> *ST* 2-2.25.4 c.: "... dicendum est quod amicitia proprie non habetur ad seipsum, sed aliquid maius amicitia: quia amicitia unionem quandam importat, dicit enim Dionysius quod amor est *virtus unitiva*; uniuersum autem ad seipsum est unitas, quae est potior unione. Unde sicut unitas est principium unionis, ita amor quo quis diligit seipsum, est forma et radix amicitiae: in hoc enim amicitiam habemus ad alios, quod ad eos nos habemus sicut ad nosipsos; dicitur enim in IX *Ethic.* quod *amicabilia quae sunt ad alterum veniunt ex his quae sunt ad seipsum*. Sicut etiam de principiis non habetur scientia, sed aliquid maius, scilicet intellectus." Cf. *3 Sent.* d.28 a.4 c.; *De div. nom.* 4.11 n.449; *ST* 1.60.5 ad 1.

<sup>90</sup> *ST* 1.60.4 ad 2: "Ad secundum dicendum quod *ly sicut* non designat aequalitatem, sed similitudinem. Cum enim dilectio naturalis super unitatem naturalem fundetur, illud quod est minus unum cum eo, naturaliter minus diligit. Unde naturaliter plus diligit quod est unum numero, quam quod est unum specie vel genere. Sed naturale est quod similem dilectionem habeat ad alium sicut ad seipsum, quantum ad hoc, quod sicut seipsum diligit in quantum vult sibi bonum, ita alium diligit in quantum vult eius bonum."

Thomas, when the order of one's love for others will be wholly determined by their objective goodness (i.e., nearness to God), each person will still love himself more intensely than any other created person.<sup>91</sup>

### C. Self-Love as the Source of Loving God More than Self

In contrast to the love for others, Thomas maintains, a person's love for God should be more intense than his self-love. To explain this, Thomas has recourse to the fourth of the modes listed in the commentary on the *De divinis nominibus* by which another's good can be taken as one's own good. This is the case in which a part takes as its good the good of the whole to which it belongs. Thomas consistently appeals to this structure to explain how created persons love the common good (both political and otherwise) and especially to explain how God is loved for his own sake even more than self. Here again we must try to see the role of the love of self in the generation of these loves.

When Thomas treats the natural love of God proper to both angels and human beings, his procedure is almost always the same.<sup>92</sup> In the first place he argues that it is natural that the part should love or seek the good of its whole more than its own particular good. As an example from the realm of physical nature he points to the fact that a person spontaneously raises his hand to defend his head from a blow. In this case the hand sacrifices itself for the good of the whole which is dependent on the well-being of the head. In the moral realm, the example is that of an individual who sacrifices his life for the good of the city or state. This is considered to be a virtuous act of the citizen.

It is important here to see clearly the individual's relationship to the common good. If we consider the citizen precisely as citizen, then the common good is not distinct from his good, but rather is his good. As a part of the whole, his good is to be found in that good which perfects the whole.<sup>93</sup>

<sup>91</sup> *ST* 2-2.26.13 c.

<sup>92</sup> For a comprehensive and careful study of Thomas's doctrine on this point, see Gregory Stevens, "The Disinterested Love of God According to St. Thomas and Some of His Modern Interpreters," *The Thomist* 16 (1953): 307-33, 497-541.

<sup>93</sup> For this point, see *ST* 2-2.47.10 ad 2: "... ille qui quaerit bonum commune multitudinis ex consequenti etiam quaerit bonum suum, propter duo. Primo quidem, quia bonum proprium non potest esse sine bono communi vel familiae vel civitatis aut regni. . . . Secundo quia, cum homo sit pars domus et civitatis, oportet quod homo consideret quid sit sibi bonum ex hoc quod est prudens circa bonum multitudinis: bona enim dispositio partis accipitur secundum habitudinem ad totum; quia ut Augustinus dicit, in libro *Confess.*, *turpis est omnis pars suo toti non congruens.*" We are speaking here of the individual *as part of the whole*, and leave aside the questions that arise when one recognizes that the individual is not only a part, but is directed to ends other than and beyond the ends of the community. *As part* the individual is relative to the whole.

The part as such is not perfect, that is, it does not have its full goodness, except in the attainment of the good of the whole to which it belongs and to which, as a part, it is ordered. Here then, the good citizen is the one who, recognizing his pertinence to the community, affectively, with *com-placentia*, intends the good of the community as his own good. Here we have both *extasis*, in that he intends the good of persons other than himself, and *inhaesio*, in that he affectively takes the common good as his own good, willing what is good for the community (*amor concupiscentiae*) for the sake of those who make up the community (*amor amicitiae*). The citizen's love for the common good derives from his love of self: insofar as his pertinence to the community is essential to what he is, his desire for the good of the community is an element of his desire for his own good.<sup>94</sup>

How precisely does this part-whole structure apply to the question of loving God with a love a friendship? It clearly should not be understood pantheistically, as if creatures were parts of a whole that is God, such that there would be actually only one subsisting being. Each created substance has its own act of being, formally different both from that of other beings and from God. Rather, all created beings together form a whole by means of an order among them. This whole is the universe, and the individual creatures are the parts of the universe. In this way each created being is ordered to the good of the whole universe, and the chief goodness of each creature lies in its proper ordination to this whole. The common good of the universe consists on the one hand in its intrinsic order, but this, on the other hand, is itself ordered to an extrinsic common good which is God himself. This order to God, however, is found primarily in the rational creatures, since all other creatures are ordered to the common good only insofar as they serve rational creatures. Thus the ordination of the whole to its (common) good is found primarily in the activity of rational beings, and particularly in the properly rational activities of knowing and loving God.<sup>95</sup> God, then, should be loved by each rational being as the common

<sup>94</sup> This relation of the individual to the community, while here considered chiefly in terms of the political community, is in fact present in any community. On this point, see *ST* 2-2.58.5 c. In Thomas's understanding, the love of the common good would be a love of concupiscence based on a love of friendship for the persons who make up the community. This is distinct from a social contract theory such as that found in Thomas Hobbes wherein the common is good is loved with a love of concupiscence, but directed only to one's self, who is the only person loved with a love of friendship. That is to say, the common good has only the character of an instrument at the service of one's self-love.

<sup>95</sup> See, e.g., *SCG* 3.22 and 112; *De caritate* q. un. a.7 ad 5. For a comprehensive treatment of this theme, see Oliva Blanchette, *The Perfection of the Universe According to Aquinas: A Teleological Cosmology* (University Park, Penn., 1992), especially the final chapters.

good of the universe of which the rational being is a part.<sup>96</sup>

While this use of the part-whole structure appears in several of Thomas's discussions of the rational being's love for God, it does not seem to be the most basic one. If we say that the rational being, as a part, loves the good of the whole which is God as its own good, then we may seem to have an explanation of how the rational beings love God with a love of friendship. Nevertheless, such an argument does not explain fundamentally why the rational creatures love God. God is the common good of the whole universe precisely because he is the common good of the chief parts of the universe, the rational creatures, to which the other parts are ordered. If God were not the good of the rational creatures, it seems that he would not be the common good of the universe. Thus we cannot explain why God is the good of the rational creatures and is loved by them simply by saying that they are parts and he is the common good. Rather we must show how God is specifically the good of the rational creatures and so is loved by them.

In dealing with this question, Thomas again introduces the part-whole relation—not, however, the relation of individual creatures to the universe, but rather that of a participated perfection which stands as a part to a whole consisting of the pure, unparticipated perfection. The chief texts of Aquinas which take up the question of the *amor amicitiae* for God explain both its existence and its priority to the self-love in terms of his doctrine of participation.<sup>97</sup> In his commentary on the *De divinis nominibus*, when discussing the mode by which the part loves the good of the whole, Thomas remarks that the part is perfect only in the whole, and then adds that “what is superior among beings is compared to what is inferior as a whole to a part, insofar as the superior has perfectly and completely what the inferior has imperfectly and particularly.”<sup>98</sup> So too, in discussing the *extasis* proper to the part's love for the whole, he states that “that good is more perfect than the lover himself and thus the lover is related to it as a part to a whole, because those things that are found completely in things that are perfect are found partially in imperfect things; and accordingly the

<sup>96</sup> This is God taken as the “cosmological” common good. Some representative texts are *De spe* 1 ad 9; *De perfectione spiritualis vitae* 14; *Quodlibet* 1.8; *ST* 1-2.109.3. See Stevens, “Disinterested Love of God,” 515–32.

<sup>97</sup> *3 Sent.* d.29 a.3 c.; *De div. nom.* 4.9 n.406 and 4.10 nn.431–32; *ST* 1.60.5 c. See Stevens, “Disinterested Love of God,” 515–32.

<sup>98</sup> “Quod enim est superius in entibus, comparatur ad inferius sicut totum ad partem, in quantum superius, perfecte et totaliter, habet quod ab inferiori, imperfecte et particulariter habetur. . . .” (*De div. nom.* 4.9 n.406).

lover belongs to the loved."<sup>99</sup> Here we see expressed in the language of part and whole the doctrine of individuals participating in a limited (partial) degree in pure perfections.

In accord with this doctrine of participation, Thomas maintains that the perfections of all creatures, including rational beings, are found more perfectly in the unparticipated source than in the participating subjects. It is precisely this point that serves to explain the love of God for his own sake (*amor amicitiae*) even more than self. The very good that one loves in oneself is found more perfectly in the uncreated source of that good. Hence, Thomas argues in his *Sentences* commentary that what each being loves is its own good, but that that good is most loved where it is found most perfectly. Thus we are more pleased by (i.e., have more *complacentia* in) our good as it exists in God than as it exists in ourselves, and accordingly we love God even more than ourselves.<sup>100</sup> One might express it as follows: the complete good of the whole that is God is more my good than the particular and partial good that I as a particular subsisting being possess. God, as the pure source of all good, is more lovable than any particular good, even oneself. This mode of argumentation is not merely to be found at the beginning of Thomas's career, but also appears in his chief treatment of the question in the *Summa theologiae*.<sup>101</sup>

<sup>99</sup> "... illud bonum sit perfectius quam ipse amans et per hoc amans comparatur ad ipsum ut pars ad totum, quia quae totaliter sunt in perfectis partialiter sunt in imperfectis; unde secundum hoc, amans est aliquid amati" (*De div. nom.* 4.10 n.431).

<sup>100</sup> "Bonum autem illud unusquisque maxime vult salvari quod est sibi magis placens; quia hoc est appetitui informato per amorem magis conforme; hoc autem est suum bonum. Unde secundum quod bonum alicujus rei est vel aestimatur magis bonum ipsius amantis, hoc amans magis salvari vult in ipsa re amata. Bonum autem ipsius amantis magis invenitur ubi perfectius est. Et ideo quia pars quaelibet imperfecta est in seipsa, perfectionem autem habet in suo toto, ideo etiam naturali amore pars plus tendit ad conservationem sui totius quam sui ipsius. Unde etiam naturaliter animal opponit brachium ad defensionem capitis ex quo pendet salus totius. Et inde est etiam quod particulares homines seipsos morti exponunt pro conservatione communitatis cujus ipsi sunt pars. Quia ergo bonum nostrum in Deo perfectum est, sicut in causa universali prima et perfecta bonorum, ideo bonum in ipso esse magis naturaliter complacet quam in nobis ipsis. Et ideo etiam amore amicitiae naturaliter Deus ab homine plus seipso diligitur" (3 *Sent.* d.29 a.3 c.).

<sup>101</sup> "Unumquodque autem in rebus naturalibus, quod secundum naturam hoc ipsum quod est, alterius est, principalius et magis inclinatur in id cuius est, quam in seipsum. . . . Quia igitur bonum universale est ipse Deus, et sub hoc bono continetur etiam angelus et homo et omnis creatura, quia omnis creatura naturaliter, secundum id quod est, Dei est; sequitur quod naturali dilectione etiam angelus et homo plus et principalius diligit Deum quam seipsum" (*ST* 1.60.5 c.; cf. ad 1). We should note here that, as a theological doctrine, the natural love of God above self is possible for the integral nature but not for the fallen nature (*ST* 1-2.109.3 c.). Thus in the present condition such a love becomes possible only by the infusion of grace. That the nature as such is capable of such a love is clearly stated in the above text (*ST* 1.60.5, especially ad 4).

Here again, as in the love for other created persons, the love for God arises from the love of self. This love is not one of concupiscence, as if God were loved only insofar as he contributed to one's own particular good, but rather a love of friendship in which the other is loved for his own sake on account of the good which he has in itself.<sup>102</sup> Just as the love of others arises on the basis of similitude such that one loves in the other that which one loves in oneself, so too in the case of the love of God one loves in him what one loves in oneself. It is not just a quantitative matter, such that God, simply as the infinite good, should be loved above all other goods. Rather, as the source of all good, he contains all the perfection and all the goodness of each creature. Here again the created person encounters in the other that which he loves in himself, and on this basis there is the resulting affective "extension" of the self to include the other.<sup>103</sup> But here the relationship is reversed. It is not God who is similar to the creature, but rather the creature who is like God. Thus God is more lovable than self because what is loved in the self is found more perfectly, in its original purity, so to speak, in God.<sup>104</sup>

It is now clear how both in loving others and in loving God, the love for the other person arises from and is an extension of the love of friendship one has for oneself. In loving the other one loves that good one loves in oneself. In this way, the extension of self-love is not understood as an extension of the love of concupiscence; the lover is not loving the others as means to his own individual good, but rather is taking the others, being good in themselves, as part of his good, or, as in the case of God, takes himself as a part of God's goodness. This extension of the love of friend-

<sup>102</sup> *ST* 1.60.5 ad 2.

<sup>103</sup> Here it is interesting to ask the following question: if *per impossibile* there were two Gods, would I love the "other" God just as I love "my" God (the God by whom I was created)? I believe that on Thomas's understanding of love, I would love "my" God more precisely because he is "my" God; his goodness would be *my* good in a way that the "other" God's would not. This means that the basis for loving God is not simply the infinity of his goodness, just as my love for my city more than other cities does not arise simply because it is objectively better than they. Geiger seemed to have thought that only in the love of concupiscence do I take the object of my love as *my* good (see, e.g., *Le problème de l'amour chez saint Thomas d'Aquin*, 101); the object of the will, as a spiritual faculty, is the good as such, which one should love simply as *objectively* good and not as mine. On the whole, Geiger did not seem to recognize that the term "my good" is analogous according to whether it is the object of *amor concupiscentiae* or *amor amicitiae*. In the latter case it does not have the egoistical sense that Geiger clearly wished to avoid, and yet for Thomas can be properly employed.

<sup>104</sup> It is possible, as Thomas notes, that a person not love God, but this can occur only if one does not know God as the source of all good, and if one understands his one good in such a way that God would seem to harm or threaten it. Thus God, *per se*, can only be loved. For this point, see *ST* 1.60.5 ad 5, 1.82.2 c., and 2-2.25.8 c.

ship is, for Thomas, *sui generis*. As we have seen above, this extension causes the consequent extension of the love of concupiscence, but the two remain always distinct. Self-love causes the love of friendship for others, then, not in the order of final causality, but *in via generationis*.<sup>105</sup> The nature and origins of *amor amicitiae* are irreducible to any other phenomena, and it is, as Servais Pinckaers has expressed it, a "primary fact" of Thomas's moral doctrine.<sup>106</sup>

#### IV. THE COMPATIBILITY OF LOVE OF FRIENDSHIP AND THE INCLINATION TOWARDS BEATITUDE

We must now take up the question with which we began, that of the compatibility of love of friendship, i.e., love of another person for that person's sake, with the natural inclination to one's own happiness when this latter is taken precisely as the source of all further acts of the will. We must see that one wills the love one has for the other person as a perfection of oneself and thus as something contributing to one's fulfillment or happiness, and moreover that this love of one's *amor amicitiae* does not remove its "other-directed" intention.

We have seen that *amor amicitiae* involves an extension of self, a taking of the other as another self or as a part of oneself. The condition of possibility for this extension is similitude; a person must find in the other that good which he loves in himself. We may still ask, nevertheless, how and why it is that one actualizes this possibility. Here it is necessary to return to an earlier point, the fact that *dilectio* is a free love. A "free love" in this context means that when I love someone, I need not do so. This freedom is seen most clearly in beneficence, since when I act for the good of another person, it is because I have willed or chosen to do so.

Thomas addresses this theme when he asks whether charity itself is an object of charity (*ST* 2-2.25.2). In this discussion he points out that it belongs to the power from which love arises, viz., the will, that it can reflect on its own acts. Thus a person can not merely will something but can also will to will something. This reflexivity, he continues, is a characteristic proper to love, because it arises spontaneously in the lover (not from without). Thus the lover, when he loves someone, loves that he loves

<sup>105</sup> *3 Sent.* d.29 a.3 ad 3.

<sup>106</sup> Servais Pinckaers, "Der Sinn für die Freundschaftsliebe als Urtatsache der thomistischen Ethik," in *Sein und Ethos: Untersuchungen zur Grundlegung der Ethik*, ed. Paulus Engelhardt (Mainz, 1963), 228–35.

(*amat se amare*).<sup>107</sup> As Thomas states in another text, *diligere dilectionem* belongs to the structure of charity.<sup>108</sup> This love of the love itself is clearly an *amor concupiscentiae*, whether one is loving one's own love or another person's love. The act of love is ontologically an accident and not a person, and hence it can be willed or loved only as a good for a person.<sup>109</sup>

If, then, we speak of loving one's love or of willing to love, we can distinguish two loves in the will or at least two moments in the will's act that are present when one person loves another person. There is, first of all, the love directed to the other person, a love of friendship. Second, there is a love of concupiscence for that love. And here it would seem that when one wills to love another, this second willing is referred to oneself. That is, the love of concupiscence directed to the love of friendship is a love of concupiscence for what is taken to be a good for one's self. If I will to love another person, that can be so only because I judge that I will be somehow better for such a love. In fact, if I did not think that I would be better for it, I would not choose the love for the other. Thus if we speak of choosing to love, that choice is made in view of the lover's own individual good.

Thomas develops this point in his *Sentences* commentary when he poses the question of whether or not charity for God is consistent with a desire for reward.<sup>110</sup> Reward (*merces*) is defined as some good that a person receives for his work or operation; this reward is not necessarily the intended end of a person's activity, but when it is intended, the person will be seeking it for his own sake. Thomas argues that to seek a reward from the side of the person loved (*ex parte amati*) is inconsistent with the love of friendship. It belongs to the very essence of friendship that the friend be loved

<sup>107</sup> "Amor autem ex natura potentiae cuius est actus habet quod possit supra seipsum reflecti. Quia enim voluntatis obiectum est bonum universale, quidquid sub ratione boni continetur potest cadere sub actu voluntatis; et quia ipsum velle est quoddam bonum, potest velle se velle: sicut etiam intellectus, cuius obiectum est verum, intelligit se intelligere, quia hoc etiam est quoddam verum. Sed amor etiam ex ratione propriae speciei habet quod supra se reflectatur: quia est spontaneus motus amantis in amatum; inde ex hoc ipso quod amat aliquis, amat se amare" (*ST* 2-2.25.2 c.). This reflexivity in willed acts is, for Thomas, proper to all free acts of the will; see, e.g., *ST* 1-2.9.3, 1-2.16.4 ad 3, and 1-2.17.5; *De malo* 6 a. un. c.; *De ver.* 14.3 c.

<sup>108</sup> 3 *Sent.* d.28 a.1 ad 3: "Ad tertium dicendum quod diligere dilectionem ad caritatem pertinet, sed non sicut ad quod caritas terminetur."

<sup>109</sup> *ST* 2-2.25.2 c.: "Sed caritas non est simplex amor, sed habet rationem amicitiae, ut supra dictum est. Per amicitiam autem amatur aliquid dupliciter. Uno modo, sicut ipse amicus ad quem amicitiam habemus et cui bona volumus. Alio modo, sicut bonum quod amico volumus. Et hoc modo caritas per caritatem amatur, et non primo: quia caritas est illud bonum quod optamus omnibus quos ex caritate diligimus.—Et eadem ratio est de beatitudine et de aliis virtutibus."

<sup>110</sup> "Videtur quod in dilectione Dei non possit haberi respectus ad aliquam mercedem" (3 *Sent.* d.29 a.4).

for his own sake (*sui gratia*), and so to love him as that by which I would receive something would be contrary to the nature of *amor amicitiae*. Thus to love God for the sake of the goods that come from him would not be consistent with charity.<sup>111</sup> When, however, the love of friendship is viewed from the side of the one loving (*ex parte amantis*), it is not inconsistent with the love that it be willed for the sake of a reward, i.e., for the sake of some good accruing to the one loving. The love is an operation, an accident of the lover, and as such it can be loved for the sake of the lover and can be ordered to some good of the lover beyond itself. This further good, says Thomas, is that good to which all virtue and operation are ordered, viz., the *beatitudo* or happiness of the subject.<sup>112</sup> Thus one loves the love of friendship as contributing to one's own fulfillment or happiness.

We must emphasize several points from this text and those we have just seen above. It is clear, in the first place, that for Thomas it is possible to love, as ordered to one's own good, one's love of friendship for another person without destroying the intention that is essential to *amor amicitiae*. If I love the other and do so because I am looking to receive some good for me from him, then I destroy the intention of *amor amicitiae*; we have seen this earlier in describing the *extasis* which characterizes *amor amicitiae*.<sup>113</sup> But it is possible that I look for a good for myself, not from the *object* of the love, but from the *act* of loving. That means that in loving my love as contributing to my perfection or fulfillment, the other-directed intention is not undermined or destroyed, because what I want for myself is precisely a love of friendship which is other-directed. I am better precisely for loving the other for the sake of the other. Thus there is no contradiction between the "disinterested" character of the love for the other and the fact that I will the love as a good for me.

In the second place, it is clear that the love for the other is never without self-interest. If the love is free, then the lover must will to love and

<sup>111</sup> "Patet ergo quod ponere mercedem aliquam finem amoris ex parte amati, est contra rationem amicitiae. Unde caritas per hunc modum oculum ad mercedem habere non potest: hoc enim esset Deum non ponere ultimum finem, sed bona quae ex ipso consequitur" (3 *Sent.* d.29 a.4 c.).

<sup>112</sup> "Sed ponere mercedem esse finem amoris ex parte amantis, non tamen ultimum, ut scilicet ipse amor est quaedam operatio amantis, non est contra rationem amicitiae; quia ipsa amoris operatio cum sit quoddam accidens, non dicitur amari nisi propter suum subjectum, ut ex dictis patet. Et inter ea quae propter se aliquis diligit, potest esse ordo, salva amicitia. Unde et ipsam operationem amoris possum amare, non obstante amicitia, propter aliquid aliud. . . . Potest tamen habere oculum ad mercedem, ut ponat beatitudinem creatam finem amoris, non autem finem amati: hoc enim nec est contra rationem amicitiae, neque contra rationem virtutis, cum beatitudo virtutum sit finis" (3 *Sent.* d.29 a.4 c.).

<sup>113</sup> See pp. 24–25 above.

must will to love because it is better for him to do so. As we have already stated, if the lover is not better for the loving, it is difficult to understand why he would choose it at all. If the love of the others, even of God, bespeaks absolutely no good for the lover considered as an individual, then it becomes seemingly impossible to explain why he freely moves himself to it. This reference to oneself and one's own good is present, explicitly or implicitly, in every free act. Thus there is for Thomas no "pure" or "completely disinterested" love in the sense that the lover is no better for it, or even that the lover does not will to be better for it. This, however, as we have seen, does not remove the other-directed intention which, for Aquinas, is the essential ecstatic element of the love of friendship. For Thomas love is always both "disinterested" and "interested."

In the third place, we can see, from these texts, how *amor amicitiae* can be said to arise from one's self-love, the natural inclination to one's own *beatitudo*. Once again, if the act of *dilectio* is free, I will it as good for me. This in fact means that I will it as contributing to my fulfillment, my beatitude. This is, as Thomas says, the ultimate *merces* that one seeks in one's act of loving. Hence it is ultimately one's natural desire for happiness that causes the act of loving another person. This is in accord with Thomas's view that all other acts of willing arise from this first natural act. The key to understanding this point is to see that it can (and for Thomas does) pertain to my fulfillment that I love others for their own sake, and, in the case of God, more than myself. To say that all I do is ordered to my own happiness does not exclude that what I do be ordered to the good of someone else. It only requires that that ordering to the other be a good for me. Difficulty arises only if one understands the notion of self-love as the ultimate cause of all willing to mean that all that I love I love with a love of concupiscence directed to me. But this is not implied by Thomas's notion, and hence it seems that there is no intrinsic incompatibility between self-love as the principle of all acts and the *amor amicitiae* caused by it.

A final important aspect of one's love of concupiscence with respect to the love of friendship for another person is that of the desire for the presence of the loved person. As we saw above, it belongs to the structure of *amor* in general that the lover tend toward union with the loved object, for love is perfected in union.<sup>114</sup> In the case of *amor amicitiae* this is a desire to have the loved person present, to be together. This desire for the presence of the loved person would seem to be an *amor concupiscentiae*,

<sup>114</sup> See pp. 8–11 above; also: "Amor enim importat habitudinem concupiscibilis ad bonum, . . . Et quia haec habitudo perficitur ex praesentia objecti, ideo amor secundum perfectam sui rationem est habitus, ut Augustinus dicit" (3 *Sent.* d.26 q.1 a.3 c.).

since the presence itself is not a person.<sup>115</sup> It may, however be directed either to the loved person or to the lover himself, depending on what the lover is willing. The lover may will the presence of the other in order to be able to act for the other's good, i.e., for the sake of benefiting him. In this case the presence would be sought as a good of the other, and the lover's love of concupiscence would not be directed to the lover himself. But the lover may will the presence of the loved person because he takes pleasure in seeing the loved person. Just as he delights in seeing his own goodness, so he delights in seeing the goodness of his friend who represents an extension of himself. It is clear that the love of friendship does not depend upon the actual being together of the lover and the one loved. Nevertheless, it does include this tendency, since the lover wills to rejoice in the other as in his own good, and for this presence is required.<sup>116</sup> How should we understand this desire for the presence of the other in order to rejoice in him as compatible with the "other-directed" intention of *amor amicitiae*?

It may appear that this desire for presence undermines the other-directed love for the other, and reduces it to an *amor concupiscentiae*. One might reason as follows. I desire the presence of the friend because I wish to have the accompanying joy. Moreover, it is precisely in order to be able to have this joy in that which is mine that I love the other and take him as a part of me. That is to say, I love the friend, in the end, as a means to my own joy and not with a true other-directed love. Thus the desire to take joy in the other would reveal the underlying self-directed nature of the love; a truly "disinterested" love would be free of such self-centered desires.

Here it is necessary to make two points. In the first place, the union of the lover and the one loved is an effect of the *amor amicitiae*; such a love

<sup>115</sup> See, e.g., 3 *Sent.* d.27 q.2 a.1 c.: "Quia enim amor unit quodammodo amantem amato, ideo amans se habet ad amatum, quasi ad seipsum, vel ad id quod est de perfectione sui. Ad seipsum autem et ad ea quae sui sunt, hoc modo se habet ut primo velit sibi praesens esse quidquid de perfectione sua est. Et ideo amor includit concupiscentiam amati qua desideratur ipsius praesentia." A more explicit reference to union with the person loved with *amor amicitiae* is *ST* 2-2.27.8 ad 1: "Volebat enim [Apostolus] ad tempus privari fruitione divina, quod pertinet ad dilectionem sui, ad hoc quod honor Dei procuraretur in proximis, quod pertinet ad dilectionem Dei." Cf. *ST* 1-2.28.1, especially ad 2.

<sup>116</sup> For these modes of desiring the presence of the one loved, see *ST* 1-2.4.8 c., and the related discussion found in the analysis of *beneficentia* as a source of pleasure (*ST* 1-2.32.6). In the latter, Thomas distinguishes between the pleasure one takes in the fact that the friend has the good (a love of concupiscence for the good of the other), and the pleasure one can take in his own act of procuring the good for the other (a love of concupiscence for one's own good). The pleasure one takes in *seeing* the other is most clearly expressed in *ST* 1-2.4.8 where Thomas gives as one reason for having a friend present the pleasure one takes in seeing the good acts of the friend, which one takes as one's own.

produces a tendency in that direction. Nevertheless, such a friendship consists *essentially* in the affective relationship itself, by which the lover takes the other as that for which he wills the good for its own sake as he does for himself, i.e., the other as an extension of self or even as another self. If for some reason the being together cannot be realized, the love does not for this reason cease to exist. If the end of the love were precisely the joy experienced in the presence of the other person, then it would cease if such presence were recognized to be impossible. Thus while union with the loved one is an effect of *amor amicitiae* and the tendency toward such union is essential to it, the union does not constitute the end to which the love as a means is ordered.<sup>117</sup>

In the second place, such a view seems to rest on a subtle confusion with respect to appetite's relation to the good as simply good and to the good as productive of joy. As we remarked earlier, this relationship is different in the sense appetite and in rational appetite; in fact, it is reversed.<sup>118</sup> The sensible good, as sensible good, is loved precisely *as pleasurable*. It is taken as good just because and only insofar as it produces sensible pleasure, such that if it does not produce this pleasure it ceases to be desirable. On the level of rational appetite, in contrast, one takes pleasure in a good because it is good; because I recognize that something is good for me or perfective of me, I take joy or find satisfaction in possessing it. Thus a person can find satisfaction in actions which are physically painful; the measure is not the physical pleasure or pain but rather whether or not the action is good, and the rational joy one experiences arises precisely from the recognition of this goodness. Here it is not possible that a good be loved for the sake of the joy it produces, but rather the joy is a consequence of seeing that one possesses the good. The good itself is desired *because* it is perfective.<sup>119</sup>

Thus to say that one loves other persons only in order to experience the joy of their presence is to confuse spiritual love with sensible love. If one loved another person only as a sensible good, and hence as a source of sensible pleasure, there would only be a self-directed love of concupiscence. As soon, however, as one loves another person because of the

<sup>117</sup> See 3 *Sent.* d.27 q.2 a.1 ad 11: "Ad undecimum dicendum quod amicitia vera desiderat videre amicum et colloquiis mutuis gaudere facit, ad quem principaliter est amicitia; non autem ita quod delectatio quae est ex amici visione et perfruitione, finis amicitiae ponatur, sicut est in amicitia delectabilis."

<sup>118</sup> See pp. 12–13 above.

<sup>119</sup> Important here is Thomas's view that the first object of the will cannot itself be an act of the will. Such would be the case if the good were loved for the sake of joy (*gaudium*). Joy, an act of the will, would then be the last end and so the first object of the will would be itself an act of the will. For this point, see *ST* 1-2.4.2 c.

good of that person himself as happens in love of friendship, then we are on the rational level. And here one finds joy in the presence of the other only as a consequence of the love of the good which the other person is and has. This means, then, that the joy one finds in the presence of the friend *presupposes* an other-directed love and is a consequence of it. It is not possible, on the rational level, to love another person with *amor amicitiae* only for the sake of rejoicing.<sup>120</sup> It is worth noting here that persons do not feel "used" from the fact that others find joy in their presence, but rather experience such joy as an affirmation of their own goodness. We should also note that here again the tendency toward union and the consequent joy which belong to the essential structure of love make a "purely disinterested" love impossible for Thomas. Love, by its very nature includes an inclination towards a union of the lover with the loved.

### CONCLUSION

To conclude, we might approach a question which Thomas does not take up directly, but which, nevertheless, seems to be of central importance for the whole preceding discussion. We have said that one chooses to love others with love of friendship because it is better for oneself and contributes somehow to one's happiness. But how exactly is one better for having such a love? Why is it that one exercises love of friendship at all?

One basic ground seems to be the conviction that human beings are by nature social or political beings, Aristotle's ζῷον πολιτικόν. Yet this can be understood in different manners. We may take it to mean that one person living alone can neither survive nor actualize the potential contained in human nature, so that only by living and acting with others is this possible. In this sense each person might be said to need the others simply because each person desires for himself those goods which can be achieved only through common action. Such an understanding would, however, limit the individual's relation to the others and to common goods to a love of concupiscence directed to one's own fulfillment. Hence the question remains: if there is such a thing as true love of friendship for others, and given that human beings precisely as social animals have a natural inclination to this love, in what way is a person better for it? Why am I better, what good do I acquire, by taking another as part of me? This question cuts to the heart of the relation between one's desire for fulfillment and *amor amicitiae*.

<sup>120</sup> ST 1-2.4.2 ad 2 (see n. 33 above)

We receive perhaps the general principle of the answer in the treatise on happiness in the *Summa theologiae*, wherein Thomas argues that only God can be the ultimate end, the *finis cuius*, because only God is infinite goodness. The will finds the full satisfaction of its desire for the good nowhere else than in that being which is itself unlimited, unparticipated goodness.<sup>121</sup> What this argument points to is the “mismatch” between the capacity of the will to love and the good which a (created) person contains in his own being, regardless of the degree of perfection it may attain. I want as “my good” more than myself.

There is, then, an underlying desire for me to have more good than I find in myself. This desire cannot be satisfied by *amor concupiscentiae*, for the objects of this kind of love are loved as means to my own individual perfection; such a love does not bring about an affective extension of my person to other goods outside myself. In the end, it is only by an extension to *other persons* in which I affectively take them as pertaining to my own person that I can satisfy my desire to have as my good more than the good of my own being. As we have said above, this is not to “instrumentalize” the other; rather precisely because the other is taken as a part of self the other’s good or perfection becomes a good for me to be sought by me for the sake of the other. I do not draw the other, so to speak, into my “world” as occurs in *amor concupiscentiae*, but rather I extend my “world” to include others.

If we view this motion in terms of joy, the consequence of love, it may be clearer. The object of joy (*gaudium*), says Thomas, is always one’s own good, and precisely in the extension of the self one extends that in which one takes joy (as well as the possibilities for sadness at the evils suffered by the others).<sup>122</sup> “My good” and my joy is widened, a widening that finds its ultimate extension in taking the infinite good of God as mine, with the corresponding joy in that infinite good. One wants, we might say, to take joy in more good than the good of one’s own person. But, as we have seen in speaking of the structure of joy, this implies the love of the good of the other as such.

Here it is pertinent to note that Thomas never opposes the love of self to the love of others or even to the love of God. The crucial distinction for him, as for Aristotle, is between the proper and improper loves of self. The improper self-love is that which desires with the love of concupiscence, as one’s perfection, chiefly the lower, sensible goods. These goods and the means thereto cannot be shared, and hence they lead to competition with

<sup>121</sup> *ST* 1-2.2.7-8 and 1-2.5.8 c.

<sup>122</sup> *ST* 1-2.32.5-6.

others. It is this kind of self-love which prevents one from loving others and gives rise to the notion that love of self is opposed to the love of others. But this is not true self-love, in that the person does not want what is truly best for himself. He who wills for himself as his perfection the higher, spiritual goods is the true self-lover.<sup>123</sup> But what are these higher goods? They are the goods of the spiritual faculties, the intellect and the will. And if we ask what are the goods of the will that are truly perfective of the person, it seems that the answer is precisely other persons, especially God, but also other created persons. Thus for Thomas true love of self, desire for one's true fulfillment, implies the extension of self to other persons through the love of friendship.

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<sup>123</sup> For this point, see *Sent. 9 Ethic.*, lect. 8–9; *ST* 2-2.25.4 and 7; *ST* 1-2.29.4 c. and ad 3.

## OCKHAM'S RAZOR AND DIALECTICAL REASONING

*Armand Maurer*

SO much has been written about the principle of parsimony, usually called Ockham's razor, that another article on the subject might seem to be superfluous.<sup>1</sup> The razor itself, which stipulates, "It is useless to do with more what can be done with fewer,"<sup>2</sup> makes one hesitate to add to the already abundant literature on the subject. But, curiously enough, not much attention has been given to the type of reasoning in which Ockham uses the principle or to his warranty for using it at all. In her recent monumental book on Ockham, Marilyn McCord Adams remarks that his "most explicit comments regarding its justification or status are frustratingly scant," adding that it is not obvious how it is related to truth or even to probability.<sup>3</sup> In view of the importance Ockham attributes to the razor, we would expect him to give an extensive and *ex professo* explanation and justification of it. Alas! we often have to be content with incidental remarks that do not completely satisfy our curiosity.

<sup>1</sup> There is an extensive bibliography on the razor. J. P. Beckmann lists forty-seven items in his *Ockham-Bibliographie 1900-1990* (Hamburg, 1992), index on 162. See R. Ariew, "Ockham's Razor: A Historical and Philosophical Analysis of Ockham's Principle of Parsimony" (Ph.D. diss., Univ. of Illinois at Urbana-Champaign, 1976); P. Boehner, *Ockham: Philosophical Writings* (Edinburgh, 1957), xx-xxi; G. O'Hara, "Ockham's Razor Today," *Philosophical Studies* 12 (1963): 125-39; C. K. Brampton, "Nominalism and the Law of Parsimony," *The Modern Schoolman* 41 (1963-64): 273-81; A. Maurer, "Method in Ockham's Nominalism," *The Monist* 61 (1978): 426-43, and "Ockham's Razor and Chatton's Anti-Razor," *Mediaeval Studies* 46 (1984): 463-75 (rpt. A. Maurer, *Being and Knowing: Studies in Thomas Aquinas and Later Medieval Philosophers*, Papers in Mediaeval Studies 10 [Toronto, 1990], 403-21, 431-43); M. M. Adams, *William Ockham*, 2 vols. (Notre Dame, 1987), 1:156-61.

<sup>2</sup> "Frustra fit per plura quod potest fieri per pauciora"; for references, see n. 44 below, and Adams, *William Ockham* 1:156 n. 23. Another medieval formula of the razor is as follows: "A plurality should not be assumed without necessity" ("Pluralitas non est ponenda sine necessitate"); see Adams, *ibid.*, n. 25, and cf. the passages quoted in nn. 45 and 47 below. In his late works Ockham, probably under the influence of Walter Chatton, expressed the razor in terms of the verification of a proposition: "When a proposition is verified of things, if two things suffice for its truth, it is superfluous to assume a third" ("Quando propositio verificatur pro rebus, si duae res sufficiunt ad eius veritatem, superfluum est ponere tertiam"); see n. 42 below. The wording "Beings ought not to be multiplied beyond necessity" ("Entia non sunt multiplicanda praeter necessitatem") is postmedieval; see Maurer, "Method in Ockham's Nominalism," 427-28 (rpt. *Being and Knowing*, 406).

<sup>3</sup> Adams, *William Ockham* 1:157-58 (quot. on 157).

Using the sparse information Ockham gives us about the razor, this essay concludes that Ockham viewed it as a general principle in dialectical or topical reasoning (in Aristotle's language an *ἐνδοξον*). The principle is taken as reasonable in itself and its truth is accredited by the majority of people and especially by the wisest. Its role is to be a general guide or rule for drawing conclusions in all the sciences and sometimes to function explicitly as a premise in dialectical or topical reasoning.

In the absence of Ockham's clear statement on the status of the razor, and because of the difficulty of interpreting his notion of dialectic, this conclusion must remain tentative. In the first section of the paper we shall briefly review the various types of argument recognized by Ockham; in the second we shall examine the role of the razor in dialectical reasoning.

## I

Ockham describes three main types of valid argument: demonstrative, inductive, and dialectical. With Aristotle he defines demonstration as "a syllogism productive of knowledge."<sup>4</sup> Clarifying this definition, he distinguishes between three meanings of the term "knowledge." In one sense it is the evident grasping of a truth, whether the truth is necessary or contingent. Second, it is the grasping of a truth that cannot be false. This excludes contingent truths and retains only those that are necessary. In a third sense knowledge is the evident grasping of a necessary truth through the evident grasping of two necessary truths arranged in proper syllogistic form. In this strict sense knowledge or science (*scientia*) is the conclusion of a demonstrative syllogism.<sup>5</sup>

A demonstration makes known either the fact that something is or the reason why it is. The former is called a demonstration *quia* or *a posteriori*, the latter a demonstration *propter quid* or *a priori*. It is called *a posteriori* because it proceeds from effect to cause, *a priori* because it proceeds from cause to effect.<sup>6</sup>

Besides demonstration in the strict sense Ockham admits other arguments as demonstrative in a wide sense as long as they lead us from some-

<sup>4</sup> "Oportet autem in principio scire quod, secundum doctrinam Aristotelis, demonstratio est syllogismus faciens scire" (William of Ockham, *Summa logicae* [*Sum. log.*] 3-2.1, ed. P. Boehner, G. Gál, S. Brown, *Guillelmi de Ockham Opera philosophica* [OPh] 1 [St. Bonaventure, N.Y., 1974], 505.12-13). See Aristotle, *Post. Anal.* 1.2 (71b17-18). For Ockham's notion of demonstration, see D. Webering, *Theory of Demonstration According to William Ockham* (St. Bonaventure, N.Y., 1953); Adams, *William Ockham* 1:445-57.

<sup>5</sup> *Sum. log.* 3-2.1, OPh 1:506.22-39.

<sup>6</sup> *Ibid.* 3-2.17, OPh 1:532-34.

thing better known to something less known. They may not have the ideal form of syllogistic reasoning in which a strict demonstration is couched, but they can be called demonstrative in the broad sense as long as they lend support for the truth of a conclusion.<sup>7</sup>

The conclusion of a strict demonstration is a universal truth made known through other universal truths called premises. But this is not the only way we can come to know general propositions. Some are self-evident to everyone, so that the mind immediately assents to them when it knows the meaning of their terms. Examples are the principles of noncontradiction and the excluded middle. All the sciences presuppose these principles. There are other self-evident principles that are assumed by the special sciences, such as physics or mathematics. Examples are "Something is movable" and "If equals are subtracted from equals, the results are equal." These self-evident propositions are necessary prerequisites of demonstration but they themselves are not premises in a demonstration. Ockham calls them maxims, assumptions, or *dignitates*.<sup>8</sup>

Other universal propositions are not self-evident but they can be known through sense experience. Thus, after feeling and imagining a sensible object, the mind can have the evident knowledge of a contingent proposition, such as "This hot thing heats." Also knowing that a property of one individual can belong to another individual of the same species, it can grasp the general proposition "All heat is heat-producing." After all, there is no reason why one heat should be more heat-producing than another. This generalization is justified because we know that something belonging to one individual can also belong to another similar one in the same species.<sup>9</sup>

The process by which experiential propositions of this sort are known is induction. With Aristotle, Ockham calls induction "a passage from individ-

<sup>7</sup> William of Ockham, *Expositio in libros Physicorum* [*Expos. in lib. Phys.*] 2.12 §9, ed. V. Richter and G. Leibold, OPh 4 (St. Bonaventure, 1985), 380.63–65; *Sum. log.* 3-2.29, OPh 1:560.88–100; and see *Elementarium logicae* 7.1, ed. E. M. Buytaert, G. Gál, and J. Giermek, OPh 7 (St. Bonaventure, 1988), 187.6–13: "Ante omnia est sciendum quod hoc nomen 'demonstratio' ad praesens tripliciter accipi potest. Scilicet stricte et sic 'demonstratio est syllogismus faciens scire'. . . . Aliter accipitur hoc nomen 'demonstratio' pro omni argumento evidenter faciente scire, sive sit syllogismus sive inductio sive consequentia qualiscumque, sive faciat scire virtute syllogismi sive non, sive possit reduci in syllogismum sive non." The *Elementarium* is of doubtful authenticity but its thought is generally held to be faithful to Ockham's. See OPh 7, intro., 7\*–11\*.

<sup>8</sup> *Sum. log.* 3-2.4, OPh 1:509.6–510.10.

<sup>9</sup> Ibid. 3-2.10, OPh 1:522–24; *Expos. in lib. Phys.* 2.12 §9, OPh 4:380.63–381.88; *Scriptum in librum primum Sententiarum (Ordinatio)* 1, Prol., 2, ed. G. Gál and S. Brown, *Guillelmi de Ockham Opera theologica* [OTh] 1 (St. Bonaventure, 1967), 90–95.

uals to universals."<sup>10</sup> As for the range of experience needed to reach a universal proposition by induction, he specifies that it varies according to the nature of the case and the skill of the experimenter. When it is a question of an ultimate species (*species specialissima*), such as the human species, he claims that a universal proposition can often be induced from one instance. For example, from experiencing laughter in one individual it can be known that every human is capable of laughter. This generalization is warranted because a property of one individual of an ultimate species is formally compatible with any other individual of the same species. If the proposition concerns something in a broader species or a genus, an acquaintance with many individuals is required; and even in the case of an ultimate species we often have to know many individuals in order to have an evident knowledge of the universal proposition. It is not easy to know that a certain kind of herb cures a particular disease without experiencing many individual cases. Indeed, sometimes all the relevant particular instances must be experienced in order to have an evident knowledge of the general proposition.<sup>11</sup>

Besides demonstration and induction, Ockham, like all medieval philosophers, appeals to dialectical or topical reasoning to reach universal conclusions. The classical source of dialectic is Aristotle's *Topics*. Boethius translated the treatise in the sixth century and wrote his own *De topicis differentiis*, which introduced new elements into the art of dialectic.<sup>12</sup> Principally through the works of Boethius and through Cicero's *Topica* dialectic became a subject of interest in the tenth century, and new developments in the art continued through the Middle Ages well into the fourteenth century. From the Aristotelian view of dialectic as a method of finding arguments in disputation based on commonly accepted opinions, it tended to become a theory of consequences, especially in connection with conditional sentences and hypothetical syllogisms. Moreover, there was a growing tendency to consider dialectical arguments to be not only probable but necessary, thus blurring the distinction between dialectic and

<sup>10</sup> "... inductio est a singularibus ad universale progressio" (*Sum. log.* 3-3.31, OPh 1:707.4). See Aristotle, *Topics* 1.12 (105a13-14).

<sup>11</sup> *Sum. log.* 3-2.10, OPh 1:522-24; *Expos. in lib. Phys.* 2.12 §9, OPh 4:380.54-382.2.

<sup>12</sup> Boethius's translation of the *Topics* is edited by L. Minio-Paluello in *Aristoteles Latinus VI-3: Topica* (Brussels, 1969). Boethius's *De topicis differentiis* is found in PL 64:1174-1216; trans. E. Stump, *Boethius's "De topicis differentiis,"* with notes and essays (Ithaca, N.Y., 1978). Boethius also commented on Cicero's *Topics*: *In Topica Ciceronis Commentariorum libri sex*, PL 64:1039-1174; trans. E. Stump, *Boethius's "In Ciceronis Topica,"* with notes and introduction (Ithaca, N.Y., 1988). See also E. Stump, "Boethius's Works on the Topics," *Vivarium* 12 (1974): 77-93.

demonstration.<sup>13</sup> We shall see presently how Ockham contributed to this development.

There are two accounts of dialectic in the works of Ockham: one in his commentary on Aristotle's *De sophisticis elenchis*, the other in his major and last work in logic, the *Summa logicae*.<sup>14</sup> We shall consider them in chronological order.

The commentary divides dialectic into *dialectica utens* and *dialectica docens*. The distinction between these meanings of dialectic was well known in the Middle Ages; it is found in the works of Albert the Great, Thomas Aquinas, and Duns Scotus, among others.<sup>15</sup> *Dialectica docens* was defined as the part of logic that investigates and teaches the method of dialectical argumentation. As such, it is a special discipline using the demonstrative method. *Dialectica utens* was not regarded as a particular discipline but the common use of logical notions and axioms (*communia*) in all the sciences. Arguments based on these notions and principles may be mingled with those proper to any of the sciences, such as metaphysics, but the conclusions of dialectical arguments of this sort were generally regarded as probable opinions.<sup>16</sup>

<sup>13</sup> See N. J. Green-Pedersen, *The Tradition of the Topics in the Middle Ages: The Commentaries on Aristotle's and Boethius' "Topics"* (Vienna, 1984), 304–7; E. Stump, *Dialectic and Its Place in the Development of Medieval Logic* (Ithaca, N.Y., 1989), 158, and "Topics: Their Development and Absorption into Consequences," in *The Cambridge History of Later Medieval Philosophy*, ed. N. Kretzmann et al. (Cambridge, 1982), 273–99; O. Bird, "Topic and Consequence in Ockham's Logic," *Notre Dame Journal of Formal Logic* 2 (1961): 65–78.

<sup>14</sup> The *Summa logicae* was written about 1323, the year before Ockham was summoned to Avignon to stand trial for heresy. The commentary on the *De sophisticis elenchis* is dated shortly before the *Summa logicae*. For the dating of these works, see *Sum. log.*, intro., OPh 1:56\*.

<sup>15</sup> Albert the Great, *Liber Topicorum* 1.1.5, ed. A. Borgnet, *Opera omnia* 2 (Paris, 1890), 248–49; Thomas Aquinas, *In duodecim libros Metaphysicorum Aristotelis expositio* 4.4 n.573–76, ed. Cathala-Spiazzi (Turin, 1950); Duns Scotus, *In duodecim libros Metaphysicorum Aristotelis expositio* 4.[1].2 n.20–21, *Opera omnia* 5 (Paris, 1891), 660–61, and *In libros Elenchorum quaestiones* 3.2, *Opera omnia* 2 (Paris, 1891), 3. Aquinas seems to limit *dialectica utens* to the use of logical notions (*entia rationis*) in the other sciences whereas Albert includes axioms (*dignitates*) as well. In this regard Ockham is closer to Albert. Simon of Faversham (ca. 1280) attributes the distinction between the two meanings of dialectic to unnamed "ancients"; see Simon of Faversham, *Quaestiones super libro Elenchorum*, *Quaestiones veteres* 5, ed. S. Ebbesen et al., *Studies and Texts* 60 (Toronto, 1984), 42.36–42. For Albert the Great's notion of dialectic, see W. A. Wallace, "Albert the Great's Inventive Logic: His Exposition of the *Topics* of Aristotle," *American Catholic Philosophical Quarterly* 70 (1996): 11–39.

<sup>16</sup> An example of Aquinas's use of logical notions in metaphysics, preparatory to demonstrative proofs, is his argument for the distinction of essence and *esse* based on the notions of genus and species. He argues that "everything in a genus must have a quiddity in addition to its being (*esse*). The reason for this is that the quiddity or nature of a genus or species does not differ, as regards the notion of the nature, in the individuals in the genus or species, whereas being is diverse in these different individuals" (Thomas Aquinas, *De ente et essentia* 5, Leonine edition, *Opera omnia* 43 [Rome, 1976], 378.9–14; trans. A. Maurer, *On Being and Essence*, 2d ed., *Medieval Sources in Translation* 1 [Toronto, 1968], 60).

Ockham is in this tradition when he writes that *dialectica utens* is not one science like *dialectica docens*, metaphysics, or geometry, but the use all the sciences can make of common notions and principles (*communia*). He specifies that this is the meaning of dialectic in Aristotle's *De sophisticis elenchis*—the work on which he is commenting.<sup>17</sup> In the broad sense, *dialectica utens* is any argument that sets out to prove something, but not demonstratively. This includes not only dialectical arguments in the strict sense but also those that are tentative, contentious, and sophistic. Taken strictly, dialectic “proceeds to prove a true conclusion from true and probable [premises]: not from those that are self-evident or adequately known from experience, but from those that are known from authority or in some other plausible way.”<sup>18</sup>

Continuing his description of *dialectica utens*, Ockham explains that it takes for granted first principles, such as the principles of the excluded middle and noncontradiction; it neither proves them nor questions them as though they were doubtful. Ockham's final point is that the dialectician sometimes makes use of necessary and evident propositions—even those that are self-evident—but his syllogism always contains a nonevident premise. Ockham implies that if the syllogism did not, it would be not dialectical but demonstrative.<sup>19</sup>

This description of dialectic conforms quite well to the traditional notion of dialectical reasoning. It is clearly distinguished from demonstration

<sup>17</sup> “Notandum quod Philosophus in proposito loquitur de dialectica utente communibus ad probandum conclusiones speciales, et non loquitur de dialectica docente, quia ista est ita determinati generis sicut aliae scientiae; nam ita considerat syllogismum dialecticum et alia pertinentia ad eum sicut geometria considerat magnitudinem et alia ad ipsam pertinentia. Secundo notandum quod dialectica utens, de qua loquitur Philosophus, non est una in tali unitate quali geometria vel metaphysica vel dialectica docens est una; et ideo a nullo philosopho in nullo tractatu est tradita; sicut nullus facit nec tradit syllogismos concludentes diversas conclusiones specialium scientiarum ex communibus, sed aliquando tales syllogismi in geometria permiscentur, et aliqui in metaphysica, et aliqui in aliis scientiis, a diversis tradentibus eas” (William of Ockham, *Expositio super libros Elenchorum* 1.18 §8, ed. F. del Punta, OPh 3 [St. Bonaventure, 1979], 118.31–43).

<sup>18</sup> “Large accipitur [dialectica utens communibus] pro quolibet procedente ad aliquid probandum non demonstrative; et sic comprehendit sophisticam et tentativam. . . . Stricte accipiendo dialecticam, procedit solum ex veris et probabilibus, non tamen per se notis nec sufficienter notis per experientiam, sed ex notis per auctoritatem vel aliam viam probabilem, ad probandum conclusionem veram” (ibid., OPh 3:118.45–51).

<sup>19</sup> “Quarto notandum quod dialectica utens non potest probare aliqua principia prima, sicut non talia ‘de quolibet affirmatio vel negatio’ et ‘impossibile est idem esse et non esse’; nam huiusmodi supponit, et non probat nec interrogat de eis tamquam de dubiis. Quinto notandum quod dialectica aliquando utitur propositionibus necessariis et evidententer notis, immo etiam per se notis; sed non praecise talibus, in nullo syllogismo, sed accipit semper aliquam praemissam non evidententer notam, sicut litigiosus aliquando accipit unam praemissam veram et aliam falsam” (ibid., OPh 3:118.54–119.62).

and induction, for its premises are not evident or adequately drawn from experience. Rather, their truth would seem to be in the order of probability, resting on authority or known by some other, unspecified, plausible means. Later in the commentary, however, we are surprised to find that a probable proposition agreed upon by the majority or by the wise can be a necessary truth. Indeed, this is said to be the strict meaning of the term "probable." In a wide sense a probable proposition only appears to be true to many or to the wise; if it is false, they are not truly wise. Since Ockham specifies that in the *Topics* Aristotle uses "probable" in the strict sense, we are led to believe that the premises of a dialectical syllogism can be both probable and necessary.<sup>20</sup> This unusual conjunction—which historians of medieval logic find hard to understand or explain<sup>21</sup>—is confirmed by Ockham's explicit statement in the *Summa logicae*.

In the *Summa* Ockham begins his treatment of the dialectical or topical syllogism in the traditional way, by contrasting it with a demonstrative syllogism. The latter is said to give us knowledge of a conclusion from evidently known premises, whereas the former begins with probable opinions (*probabilia*). As for the meaning of "probable" in this context, Ockham cites Aristotle's *Topics*: "And those [opinions] are probable that seem [to be true] to everyone or to the majority or to the wise, and among them what seems [to be true] to all or to the majority or to the wisest."<sup>22</sup> This corresponds to the broad sense of "probable" in the commentary on the *De sophisticis elenchis*.

In Boethius's version of the *Topics*, the Latin *probabilia* translates Aristotle's ἐνδοξα, which has the meaning of "generally accepted opinions."<sup>23</sup>

<sup>20</sup> "Notandum est hic quod 'probabile' dupliciter accipitur, scilicet stricte et large. Stricte sumendo 'probabile' est aliquod necessarium cui plures vel sapientes assentiunt, quod nec est principium demonstrationis nec conclusio. Et sic non loquitur Philosophus hic de probabili, sed sic loquitur in libro *Topicorum* (1.1 [100b21–23]); et sic numquam possunt praemissae esse probabiles et conclusio improbabilis. Large 'probabile' dicitur quod multis apparet esse verum vel sapientibus, sive sit verum sive falsum; si tamen sit falsum illi qui assentiunt in illo non sunt sapientes" (*Expositio super libros Elenchorum* 2.18 §6, OPh 3:315.32–40).

<sup>21</sup> Green-Pedersen, *Tradition of the Topics*, 305. See Stump, "Topics: Their Development and Absorption into Consequences," 295.

<sup>22</sup> "Syllogismus demonstrativus est ille in quo ex propositionibus necessariis evidenter notis potest adquiri prima notitia conclusionis. Syllogismus topicus est syllogismus ex probabilibus. Et sunt 'probabilia quae videntur vel omnibus vel pluribus vel sapientibus, et de his quae videntur vel omnibus vel pluribus vel maxime sapientibus'" (*Sum. log.* 3-1.1, OPh 1:359.14–19). See Aristotle, *Topics* 1.1 (100b21–23); Boethius's version, *Aristoteles latinus V 1-3: Topica*, 5–6.

<sup>23</sup> For the meaning of ἐνδοξα, see G. E. L. Owen, "Τιθέναι τὰ φαινόμενα," in *Aristote et les problèmes de méthode: Communications présentées au Symposium Aristotelicum*, ed. S. Mansion (Louvain, 1961), 83–103; rpt. as "'Tithenai ta phainomena,'" in *Logic, Science, and Dialectic: Collected Papers in Greek Philosophy*, ed. M. Nussbaum (Ithaca, N.Y., 1986), 239–51. On Aristotle's notion of dialectic, see W. A. de Pater, *Les Topiques d'Aristote et la dialectique platonicienne* (Fribourg Suisse, 1965); G. E. L. Owen, ed., *Aristotle on Dialectic: The Topics*.

Commenting on the meaning of *probabilia*, Ockham says that they should be understood as true and even as necessary (*vera et necessaria*). They are not self-evident (*per se nota*), or the premises or conclusions of a demonstration, nor are they known with evidence by experience. Nevertheless, because of their truth (*propter sui veritatem*) they are accepted as such by everyone or by the majority, especially by philosophers. This rules out the following types of propositions: 1) those that are contingent or false; 2) premises or conclusions of demonstration; 3) the articles of the Christian faith, which appear to be false to everyone or to the majority or to the wisest. Clarifying this surprising statement of a Christian theologian, Ockham explains that here “the wise” means the “wise men of the world” (*sapientes mundi*), that is philosophers, who strictly limit themselves to what can be known by natural reason.<sup>24</sup>

Turning to the topical syllogism, whose premises are the *probabilia* he has just described, Ockham insists that it is not faulty in either its matter or form. So we should not think that topical reasoning always gives rise to doubt or fear of being wrong. In fact, it often causes a firm, undoubted belief, for we sometimes cling to probable views just as strongly and confi-

*Proceedings of the Third Symposium Aristotelicum* (Oxford, 1968); Y. Pelletier, *La dialectique aristotélicienne: Les principes clés des “Topiques”* (Montréal, 1991); R. Bolton, “The Problem of Dialectical Reasoning (Συλλογισμός) in Aristotle,” in *Ancient Philosophy* 14 (1994) *Special Issue: Logic, Dialectic, and Science in Aristotle*, ed. R. Bolton and R. Smith, 99–132.

<sup>24</sup> “Et est ista descriptio sic intelligenda quod probabilia sunt illa, quae cum sint vera et necessaria, non tamen per se nota, nec ex per se notis syllogizabilia, nec etiam per experientiam evidenter nota, nec ex talibus sequentia; tamen propter sui veritatem videntur esse vera omnibus vel pluribus etc., ut sic brevis descriptio sit ista: probabilia sunt necessaria, nec principia nec conclusiones demonstrationis, quae propter sui veritatem videntur omnibus vel pluribus etc. Per primam particulam excluduntur omnia contingentia et omnia falsa; per secundam omnia principia et conclusiones demonstrationis; per tertiam excluduntur quaedam necessaria, quae tamen omnibus apparent falsa vel pluribus etc. Et sic articuli fidei nec sunt principia demonstrationis nec conclusiones, nec sunt probabiles, quia omnibus vel pluribus vel maxime sapientibus apparent falsi. Et hoc accipiendo sapientes pro sapientibus mundi et praecise innitentibus rationi naturali, quia illo modo accipitur ‘sapiens’ in descriptione probabilis” (*Sum. log.* 3-1.1, OPh 1:360.20–34). Essentially the same notion of dialectic is found in two treatises of doubtful authenticity: *Tractatus Minor* 4.4 and *Elementarium logicae* 7.15, ed. E. M. Buytaert et al., OPh 7:28.15–25 and OPh 7:205–6. For the possible authenticity of these works, see OPh 7, intro., 7\*–11\*.

The description of philosophers as “the wise men of the world” recalls Boethius of Dacia’s similar statement in his *De aeternitate mundi*, ed. N. J. Green-Pedersen in *Boethii Daci Opera: Opuscula*, *Corpus Philosophorum Danicorum Medii Aevi* 6.2 (Copenhagen, 1976), 365; trans. J. F. Wippel, *Boethius of Dacia: On the Supreme Good, On the Eternity of the World, On Dreams*, *Mediaeval Sources in Translation* 30 (Toronto, 1987), 66. Stephen Tempier, the bishop of Paris, condemned the proposition that philosophers are the only wise men of this world, but neither Boethius nor Ockham include the word “only” in their descriptions; see *Chartularium Universitatis Parisiensis*, vol. 1, ed. H. Denifle and A. Chatelain (Paris, 1889), 552, no. 154.

dently as we do to those for which we have evidence.<sup>25</sup>

In the language of the commentary on the *De sophisticis elenchis* this is a description of useful dialectic in the strict sense, while leaving room for dialectical arguments in the broad sense that fail to meet its standard. There are inconsistencies, however, between the accounts of dialectic in the commentary and *Summa logicae*. In the commentary the premises and conclusions of a dialectical syllogism are said to be true and probable; in the *Summa* they are said to be true and necessary. This can be explained, however, if we take the term "probable" in the commentary in its strict meaning of "necessary." Another difference between the two accounts of dialectic is that in the *Summa* topical maxims are accepted as true in themselves and not just on the authority of the philosophers, whereas in the commentary they rest on the external authority and judgment of the wise. This was a traditional *locus* for dialectical arguments, appealing to the maxim, "What seems true to everyone or to the majority or to the wise should not be gainsaid."<sup>26</sup>

Clearly, Ockham's description of dialectic in the *Summa logicae*, and probably in the commentary, radically alters the Aristotelian notion of dialectic. It is no longer restricted to the domain of probable reasoning and opinion but extends to reasoning that, in its own way (but different from that of demonstration), involves both truth and necessity. The novelty of Ockham's notion of dialectic stands out when compared with the traditional view of his contemporary John Buridan, who held that "a dialectical argument does not lead to real knowledge of the conclusion, but merely persuades the other part or induces him to take a certain opinion (*persuasio, opinio*)."<sup>27</sup>

Whether an argument is dialectical in the strict or wide sense, Ockham makes it clear that it always begins with probable premises (*probabilia*). He

<sup>25</sup> "Ex istis sequitur quod syllogismus topicus nec peccat in materia nec in forma. Sequitur etiam aliud, quod nullus secundum communem cursum potest evidenter et demonstrative cognoscere de aliquo syllogismo topico ipsum esse topicum, quamvis possit habere fidem quod est syllogismus topicus. Sequitur etiam aliud, quod non omnis syllogismus topicus facit semper praecise dubitationem et formidinem, sed etiam frequenter facit firmam fidem, sine omni dubitatione, quia ita aliquando adhaeremus probabilibus sicut evidenter notis" (*Sum. log.* 3-1.1, OPh 1:360.35-42). According to Green-Pedersen, *Tradition of the Topics*, 304, Ockham's statement that "the sentences of topical arguments do not occur in demonstrations . . ." is the immediate reason for his statement that we cannot demonstrate that a topical syllogism is topical.

<sup>26</sup> Boethius, *De topicis differentiis* 2, trans. Stump, 54 (modified).

<sup>27</sup> See Green-Pedersen, *Tradition of the Topics*, 305. The author points out, however, that as early as the end of the eleventh century the plausibility (*probabilitas*) of dialectical arguments was losing its importance; these arguments were thought to be necessary as well as plausible (*ibid.*, 161-62).

also explains that in this context *probabile* does not always mean probable in the sense of doubtful. He has told us that a dialectical argument in the strict sense is *ex probabilibus*, understood as propositions that are true and necessary, and assumed to be such by everyone or by the majority, especially by the wise. *Probabile* here should not be taken in our sense of "likely" or "probable" but in its etymological sense of what is provable, or what is worthy of approval, or readily believable.<sup>28</sup>

Besides *probabilia*, the term *necessaria* in Ockham's description of dialectical reasoning raises a serious problem. How can a proposition that is probable also be necessary? Unfortunately, Ockham does not answer this question, but perhaps an examination of his notion of necessity will help us to see what his answer would be. In general, he says, necessity implies that what a proposition signifies is really so and cannot be otherwise.<sup>29</sup> But there are two ways in which a proposition can be necessary: absolutely or conditionally (*ex suppositione*). A proposition is absolutely necessary when it would be contradictory for its opposite to be true; for example "God exists" and "Humans are capable of laughter." Other propositions are necessary only on some condition, as it is necessary that Peter will be saved if he is predestined.<sup>30</sup>

<sup>28</sup> For the medieval meaning of *probabile*, see the important article of Th. Deman, "*Probabilis*," *Revue des sciences philosophiques et théologiques* 22 (1933): 260–90. Deman (263 n. 3) cites Peter Olivi: "Quod Deum esse est per se notum et ratione necessaria probabile seu probatum et fide creditum" (Olivi, *Quaestiones in secundum librum Sententiarum*, ed. B. Jansen, vol. 3 [Quaracchi, 1926], 525). Stump suggests the translation "readily believable"; see her *Boethius's "De topicis differentiis,"* 18 n. 14. Ockham also uses the terms "probable" and "more probable" in our meaning of "likely" and "more likely." For example, arguing against the widespread opinion that an "impressed likeness" is required for human knowledge, Ockham says the opposite opinion is more likely (*probabilior*); *Quaestiones in librum secundum Sententiarum (Reportatio)* 2 q.12–13, ed. G. Gál and R. Wood, OTh 5 (St. Bonaventure, 1981), 256.5–9.

<sup>29</sup> "Necessitas importat quod ita sit in re sicut importatur per propositionem, et quod non potest aliter esse" (William of Ockham, *Quodlibeta septem [Quodl.]* 6.29, ed. J. C. Wey, OTh 9 [St. Bonaventure, 1980], 697.93–95).

<sup>30</sup> "Circa primum dico quod duplex est necessitas: scilicet absoluta, et ex suppositione. Necessitas absoluta est quando aliquid est simpliciter necessarium, ita quod eius oppositum esse verum includit contradictionem. Et sic haec est absolute necessaria 'homo est risibilis', 'Deus est' et huiusmodi, quia contradictio est quod haec sint falsa et eorum opposita sint vera. Necessitas ex suppositione est quando aliqua condicionalis est necessaria, quamvis tam antecedens quam consequens sit contingens. Sicut haec est necessaria 'si Petrus est praedestinatus Petrus salvabitur', et tamen tam antecedens quam consequens est contingens. Vel quando aliqua talis consequentia est necessaria, tunc dicitur necessitas ex suppositione" (ibid. 6.2, OTh 9:590.13–24). In his *Summa logicae* Ockham clarifies that the proposition "Every man can laugh" is necessary if "man" is taken as possibly existing. If taken as actually existing, the proposition is contingent, for man's actual existence is contingent: only God is a necessary being; see *Sum. log.* 3-2.5, OPh 1:512.26–513.57.

When Ockham says that the premises of dialectical arguments are necessary, does he mean absolutely or conditionally? As he does not explicitly tell us, we must search for the answer in the hints he has given us. These premises cannot have the absolute necessity of first principles, such as the principle of noncontradiction, which is known with evidence through a knowledge of its terms and whose opposite is contradictory. This principle is so necessary that not even God could make it to be otherwise.<sup>31</sup> But there are other rules and laws, such as moral commands, that have only conditional or hypothetical necessity, for they are necessary only on condition that God wills them to be so.<sup>32</sup> They are subject not to God's absolute power (*potentia absoluta*) but to his ordained power (*potentia ordinata*).<sup>33</sup> Since dialectical maxims or principles are not true in virtue of their terms (that is, they do not have the evidence of first principles), their necessity would seem to be conditional rather than absolute. The principle of the razor is a case in point. It holds good, he asserts, in the world of natural and created voluntary causes, but God is not bound by it: he does many things by more means which he could do by fewer, and yet this is not done uselessly, because it is God's will.<sup>34</sup> Thus the razor is valid only on condition that God has willed it to be so for our world. The truth and necessity of dialectical propositions are also conditional on the authority and wisdom of the philosophers.<sup>35</sup>

Whatever the word "necessary" might mean in Ockham's account of dialectic, it is obvious that he did not intend to confuse dialectic with strict demonstration. He has told us that a demonstrative syllogism causes knowledge from necessary and evident premises, whereas a dialectical syl-

<sup>31</sup> According to Ockham, God's omnipotence does not extend to contradictories. See *Quodl.* 3.1, OTh 9:204.114–22; *Ordinatio* 1 d.20 q. unica, ed. G. I. Etzkorn and F. E. Kelly, OTh 4 (St. Bonaventure, 1979), 36.4–10.

<sup>32</sup> Regarding moral laws, see *Reportatio* 2 q.15, OTh 5:352–53.

<sup>33</sup> These are not two really distinct powers of God but two aspects of his one power: *Quodl.* 6.1, OTh 9:585.14–586.39. See Adams, *William Ockham* 2:1186–1207.

<sup>34</sup> "Ad secundum dico quod Deus multa agit per plura quae posset facere per pauciora, nec est alia causa quaerenda. Et ex hoc ipso quod vult, convenienter fit et non frustra. Secus est in causis naturalibus et in causis voluntariis creatis, quae voluntariae causae debent conformare rectae rationi primae, nec aliter faciunt aliquid iuste et recte" (*Ordinatio* 1 d.14 q.2, ed. G. I. Etzkorn, OTh 3 [St. Bonaventure, 1977], 432.16–21).

<sup>35</sup> If the razor is a true principle, it is difficult to say in what its truth consists. According to Ockham, a proposition stating a fact is true if it signifies things to be as they are in reality; see *Expositio in librum Praedicamentorum* 9 §13, ed. G. Gál, OPh 2 (St. Bonaventure, 1978), 201.30; *Quodl.* 6.29, OTh 9:697.88–93. He does not seem to have considered the truth of practical propositions such as the razor, that tell us what we ought to do or not do. For Ockham's notion of truth, see Adams, *William Ockham* 2, index: 1401, and "Ockham on Truth," *Medioevo* 15 (1989): 143–72.

logism causes belief from premises that are nonevident and probable. In traditional language a dialectical argument is not demonstrative but persuasive. Ockham uses this language when he says that arguments based on maxims such as "What belongs to a lower nature should not be withheld without necessity from a higher nature" are persuasions rather than proofs that are demonstrative and necessarily convincing.<sup>36</sup> He calls some arguments of Aristotle "not absolutely demonstrative but probable persuasions that induce belief."<sup>37</sup> The expression "to induce belief" (*facere fidem*), which is a classical equivalent of "to persuade" (*persuadere*),<sup>38</sup> also appears in his description of the topical syllogism in the *Summa logicae*. We are told that this kind of syllogism "does not always give rise to doubt or fear of being wrong, but it often induces a strong, undoubted faith (*facit firmam fidem, sine omni dubitatione*)."<sup>39</sup> This makes it clear that, for Ockham, topical or dialectical reasoning is not strictly demonstrative but only persuasive. Though we may be firmly attached to it and highly approve of it, we should not expect it to yield certain knowledge but at best a well-grounded belief.

## II

After reading Ockham on dialectical reasoning as a function of *dialectica utens* in its strict sense, we would like to have an instance of a principle measuring up to his strong views on the subject. An example would illustrate concretely his general description of topical premises and argument. Is there a more likely candidate in his writings than the principle of parsimony? As we shall see, the razor appears in them as a premise in non-demonstrative, persuasive arguments. Moreover, Ockham uses it with confidence, recommending it highly as "a principle that ought not to be denied."<sup>40</sup> Also significant is his extensive appeal to the principle, espe-

<sup>36</sup> "Aliae autem rationes, puta fundatae super talia media: 'quod competit naturae inferiori non debet sine necessitate negari a superiori'; 'causa universalis secunda concurrit partialiter immediate ad producendum effectum causae particularis, ergo causa prima simpliciter'; similiter, 'corpus non est causa totalis alicuius spiritualis' et huiusmodi, magis sunt persuasiones quam rationes demonstrativae vel necessario convincentes" (*Ordinatio* 1 d.1 q.3, OTh 1:417.9–15).

<sup>37</sup> "... istae rationes non sunt demonstrationes simpliciter, sed sunt persuasiones probabiles et facientes fidem" (*Expos. in lib. Phys.* 2.11 §7, OPh 4:359.8–9). See *ibid.* 2.12, OPh 4:374.55–57; *Brevis summa libri Physicorum* 2.1, ed. S. Brown, OPh 6 (St. Bonaventure, 1984), 27.67–68; *ibid.* 2.6, OPh 6:36.24–37.26; *ibid.* 4.1, OPh 6:56.9–12.

<sup>38</sup> *Totius latinitatis lexicon*, ed. A. Forcellini, 4 vols. (Prati: Giachetti, 1839–45), 3:510.

<sup>39</sup> See note 25 above.

<sup>40</sup> See note 44 below. Ockham's phrase echoes Boethius's description of a maximal proposition: "quod omnibus vel pluribus vel sapientibus hominibus videtur, ei contradici non oportere" (*De topicis differentiis* 2, PL 64:1190C).

cially in two late works, the *Quodlibeta* and *Quaestiones in libros Physicorum*, written about the same time as the *Summa logicae* or shortly after.<sup>41</sup> (Incidentally, both sometimes employ the razor in the later formula: "When a proposition is verified of things, if two things suffice for its truth it is superfluous to assume a third."<sup>42</sup>) The anonymous follower of Ockham who wrote the *De principiis theologiae* between 1328 and 1350 derives eighty-one of his master's doctrines from the razor.<sup>43</sup> In view of Ockham's fondness for the principle and his persistent use of it, it is not impossible that he intended it to be one (perhaps the chief) of the topical *probabilia* described in the *Summa logicae*.

Let us test this hypothesis by examining the function of the principle in Ockham's doctrine. It is the major premise in persuasive argumentation: for example, in establishing his views on the eucharist. Wishing to prove that substance (and also quality) can be quantified without adding quantity as an accident really distinct from substance and quality, he contends that we can be persuaded of this as follows:

It is useless to do with more what can be done with fewer. This is a principle that ought not to be denied; for a plurality ought not to be assumed unless we can be assured of it by reason, experience, or the authority of someone who cannot be deceived or fall into error. Now, from the fact that substance, and also quality, can be quantified without such a quantity distinct from substance and quality, we cannot be assured by reason or experience that there is another quantity of this sort. Neither do we find this stated by any author who cannot err, for we do not find that God has revealed it. Hence it is not necessary to assume quantity of this sort, and so it is useless to posit it.<sup>44</sup>

<sup>41</sup> The date of the *Quodlibeta* is probably about 1325; see OTh 9, intro., 41\*. The *Quaestiones in libros Physicorum* (ed. S. Brown, OPh 6) are assigned the date 1323–24; see OPh 6, intro., 41\*. The index of the *Quodlibeta* lists the razor under *Pluralitas* as "passim"; there are multiple entries in the *Quaestiones* under *Rasorium*.

<sup>42</sup> For the Latin text, from *Quodl.* 4.24, OTh 9:413.15–17, see n. 2 above.

<sup>43</sup> *Tractatus de principiis theologiae* 2, ed. L. Baudry and F. E. Kelley, OPh 7:507–639. For the author and date of this treatise, see OPh 7, intro., 26\*.

<sup>44</sup> "Quod primo persuadetur sic: frustra fit per plura quod potest fieri per pauciora. Hoc enim est principium quod negari non debet, quia nulla pluralitas est ponenda nisi per rationem vel per experientiam vel per auctoritatem illius qui non potest falli nec errare, potest convinci. Sed ex quo substantia potest esse quanta et similiter qualitas potest esse quanta sine tali quantitate distincta a substantia et qualitate, nec per rationem nec per experientiam potest convinci quod sit talis quantitas alia. Nec hoc invenitur expressum ab aliquo auctore qui non potest errare, quia non invenitur a Deo fuisse revelatum; igitur non est necesse ponere talem quantitatem, et ita frustra poneretur" (William of Ockham, *Tractatus de corpore Christi* 29, ed. C. A. Grassi, OTh 10 [St. Bonaventure, 1986], 157.9–158.19; slightly modified). Ockham uses the same argument in the *Tractatus de quantitate*, but without calling it persuasive. He adds that it is clear by induction ("inductive patet") that whatever can be accounted for by a quantity added to substance can be accounted for without it (*Tractatus de quantitate* 3, ed. C. A. Grassi, OTh 10:58.100–107).

Ockham appeals to the razor again as the basis for a persuasive argument when taking up the question whether the matter of heavenly bodies is of the same kind as that of earthly bodies. Though he believes they are the same, he cannot demonstrate it, but at least he can give persuasive arguments for his opinion. Among them is the following:

A plurality is never to be assumed without necessity, as has often been said. Now there is no apparent reason for thinking that the matter here and there are of different kinds, because whatever can be accounted for by different kinds of matter can be accounted for equally well or better by matter of the same kind.<sup>45</sup>

Ockham uses the razor here in the same way that Aristotle did when arguing against Anaxagoras's assuming infinite bodies to explain the generation of things. In Aristotle's view, "it is better to assume a smaller and finite number of principles, as Empedocles did."<sup>46</sup> Commenting on this passage of Aristotle's *Physics*, Ockham remarks,

Here the Philosopher infers that it is better to assume finite principles, as Empedocles did when he assumed six principles, namely, four elements, strife, and friendship, than to assume infinite principles, as Anaxagoras did. This is because everything that can be explained by an infinite number can equally well be explained by a finite number; and a plurality should never be posited without necessity. Hence a finite number, and not an infinity, should be posited.<sup>47</sup>

<sup>45</sup> "Secundo dico quod in caelestibus et in istis inferioribus est materia eiusdem rationis omnino, licet haec pars non possit demonstrari sicut nec alia. Tamen potest persuaderi. . . . Sic igitur videtur mihi quod in caelo sit materia eiusdem rationis cum istis inferioribus. Et hoc, quia pluralitas nunquam est ponenda sine necessitate, sicut saepe dictum est. Nunc autem non apparet necessitas ponendi materiam alterius rationis hic et ibi, quia omnia quae possunt salvari per diversitatem materiae secundum rationem possunt aequè bene vel melius salvari secundum identitatem rationis" (*Reportatio* 2 q.18, OTh 5:400.9–12, 404.4–10).

<sup>46</sup> Aristotle, *Physics* 1.4 (188a17–18), trans. R. P. Hardie and R. K. Gaye, *The Works of Aristotle*, vol. 2 (Oxford, 1930). See Aristotle, *De Caelo* 3.4 (302b27–31).

<sup>47</sup> "Hic Philosophus infert quod melius est ponere principia finita sicut fecit Empedocles qui posuit sex principia, scilicet quattuor elementa et litem et amicitiam. quam ponere infinita principia sicut posuit Anaxagoras, et hoc quia aequè possunt omnia salvari per finita sicut per infinita, et pluralitas numquam est ponenda sine necessitate. Ideo sunt ponenda finita, non infinita" (*Expos. in lib. Phys.* 1.11 §9, OPh 4:118.2–7).

Ockham says that Aristotle assumes ("supponit") the principle (*ibid.*, 3.10 §7, OPh 4:525.15–20). But Aristotle gives several reasons for assuming it: One should prefer a proof deriving from fewer postulates or hypotheses, for "where they are fewer knowledge will be more speedily acquired, and that is a desideratum" (Aristotle, *Post. Anal.* 1.25 [86a33–36], trans. G. R. G. Mure, *The Works of Aristotle*, vol. 1 [Oxford, 1928]); "We ought, however, to suppose that there is one [prime mover] rather than many, and a finite rather than an infinite number. When the consequences of either assumption are the same, we should always assume that things are finite rather than infinite in number, since in things constituted by nature that which is finite and that which is better ought, if possible, to be present rather than the reverse" (*Physics* 8.6

These and many other arguments in Ockham's works employ the razor as their operative principle leading to a conclusion in dialectical reasoning. When neither side of a disputed question can be strictly demonstrated and reasons can be given for both, the razor tips the scale in favor of the simpler solution. Thus the thrust of the razor is to reduce every plurality to unity or to the smallest number possible.<sup>48</sup>

It is true that Ockham does not call the razor a maxim—a term he seldom uses but one that was commonly employed by Boethius and earlier medieval logicians for a dialectical or topical proposition. Indeed, the razor does not appear in the traditional lists of these maxims.<sup>49</sup> Ockham simply calls the razor a principle (*principium*); but it seems to fit the Aristotelian-Boethian description of a dialectical maxim, accepted by everyone or by the majority, and especially by the wise. Another apt term for the razor is Boethius's "communis animi conceptio" ("a common conception of the mind"), denoting a statement accepted by everyone or at least by the learned as soon as it is heard.<sup>50</sup> This was the term given to the razor by Peter of Candia, who died as Pope Alexander V in 1410.<sup>51</sup>

Having originated with Aristotle, who was recognized as The Philosopher in the high Middle Ages, the razor was formulated in the thirteenth century by Odo Rigaldus (†1275) and won the general approval of the medieval schoolmen. Before Ockham, Duns Scotus frequently appealed to it.<sup>52</sup> Few cast doubt on its utility.<sup>53</sup> If Ockham could have looked into the

[259a8–12], trans. Hardie and Gaye).

<sup>48</sup> Ockham quotes with approval the saying of Duns Scotus: "omnis pluralitas reducitur ad unitatem vel ad paucitatem tantam ad quantam reduci potest" (Duns Scotus, *Ordinatio* 1 d.2 pars 2 q.1–4 n.301, ed. C. Balić, *Opera omnia* 2 [Vatican, 1950], 305.14–15). See Ockham, *Ordinatio* 1 d.7 q.2, OTh 3:134.3–5. See also Henry of Ghent, *Quodlibet* 6.1, ed. G. A. Wilson, *Opera omnia* 10 (Leuven, 1987), 2.43–52.

<sup>49</sup> See the lists of maxims of Boethius and Peter of Spain in Green-Pedersen, *Tradition of the Topics*, 46–57. Lists of traditional maxims are also found in Stump, *Dialectic and Its Place in the Development of Medieval Logic*. Ockham gives us a list not of maxims but of rules for consequences not having syllogistic form. See *Sum. log.* 3-3.1–38, OPh 1:587–731.

<sup>50</sup> Boethius, *Quomodo substantiae in eo quod sunt, bonae sint cum non sint substantialia bona*, PL 64:1311B.

<sup>51</sup> Peter of Candia, *Sent.* 1 q.6 a.2 (Vatican City, Biblioteca Apostolica Vaticana Vat. lat. 1081, fol. 131rb). I am indebted to Fr. Gedeon Gál for the reference to Peter of Candia.

<sup>52</sup> For references to Scotus's use of the razor, see *Lexicon scholasticum philosophico-theologicum*, ed. M. F. Garcia (Quaracchi, 1910), 964–65.

<sup>53</sup> John of Reading, a contemporary of Ockham, criticized the razor as being of little use: "Unde ista propositione concessa paucas conclusiones posset ipse [Ockham] tenere, quia paucas isto modo probat" ("Quaestio Ioannis de Reading de necessitate specierum intelligibilium. Defensio doctrinae Scoti," ed. G. Gál, *Franciscan Studies* 29 [1969]: 142). Walter Chatton devised his own anti-razor to blunt the razor's cutting edge: "My rule," he said, is that "if three things are not enough to verify an affirmative proposition about things, a fourth must be added, and so on" (Maurer, "Ockham's Razor and Chatton's Anti-Razor," 464 [rpt. *Being and Knowing*, 432]).

future, he would have seen a long line of western philosophers and scientists up to modern times who would accept the razor as a sound methodological principle.<sup>54</sup>

### CONCLUSION

If the razor has the status of a dialectical principle in Ockham's philosophy and theology and in this capacity plays a significant role in them, it is important to know how much weight he gives to it and to the arguments based upon it. Is the razor only a commonplace or expert opinion whose opposite might equally well be true, or is it a true and even a necessary principle? Are the conclusions based upon it merely plausible, or do they call for our unquestioning assent?

There are no sure answers to these questions in the works of Ockham. The present paper proposes that he regarded the razor as a principle, not in demonstrative but in dialectical arguments, and as such it plays a significant, though subordinate, role in shaping his views on reality and the mind. It also suggests that the razor be interpreted in light of the notion of dialectical reasoning set forth in the two mature logical works of Ockham: the commentary on Aristotle's *De sophisticis elenchis* and *Summa logicae*. The razor then appears as not only a probable opinion but as a true and (conditionally) necessary principle. Moreover, it is true not only on the authority of the philosophers but in itself as a reasonable guide for thought. As for the conclusions flowing from it, they are not doubtful but highly believable.

Arguments can be given both for and against this interpretation of the razor. If Ockham granted it this much probative value, why did he call arguments based on it persuasive? This would seem to indicate that they are only opinions and not truths that in some sense qualify as necessary. But in the proposed understanding of the razor, the reasoning would be only persuasive, for it would not lead to evident knowledge but would only induce a firm belief. In support of the stronger reading of the razor there is Ockham's confident use of it and his insistence that it is a principle "that

<sup>54</sup> Isaac Newton cites the razor in its earliest medieval form ("frustra fit per plura quod fieri potest per pauciora") as his first rule of philosophizing: *Philosophiae naturalis principia mathematica* 3, Regulae philosophandi 1 (3d ed. [1726]), ed. A. Koyré and I. B. Cohen, 2 vols. (Cambridge, Mass., 1972), 2:550. He does not list it among his axioms (the first of which is the principle of inertia), but among his rules (*regulae*). Ockham himself does not seem to call the razor a rule. For further information about the later history of the razor, see works in n. 1 above.

ought not to be denied."<sup>55</sup> This accords well with his statement that at least some dialectical reasoning is beyond doubt and danger of error. This would seem to be the case with reasoning based upon the principle of the razor.<sup>56</sup>

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<sup>55</sup> See note 44 above.

<sup>56</sup> I wish to thank Fr. Gedeon Gál, O.F.M., for advice in writing this paper. Of course the responsibility for its conclusions is my own.

## ANSELM OF CANTERBURY AND ODO OF TOURNAI ON THE MIRACULOUS BIRTH OF THE GOD-MAN

*Irven M. Resnick*

THE works of Anselm of Canterbury (1033–1109) clearly reveal the impact that philosophical studies or dialectic had on theological speculation at the beginning of the twelfth century. Anselm attempted to guard the principle that “unless you believe you will not understand” (Isaiah 7:9);<sup>1</sup> but faith must seek understanding with the employment of reason and dialectic.<sup>2</sup> Thus, Anselm claims in his *Monologion* and *Proslogion* that what is held by faith can be proved by necessary reasons, apart from the authority of Scripture:<sup>3</sup> e.g., the Trinity in the case of the *Monologion*,<sup>4</sup> and the existence of God in the *Proslogion*. Similarly, in *Cur Deus homo* he at-

<sup>1</sup> See Anselm’s discussion in his *Epistola de Incarnatione Verbi* 1, in *Opera omnia*, ed. F. S. Schmitt, 6 vols. (Rome and Edinburgh, 1938–61), 2:7–8.

<sup>2</sup> For a study of the application of this principle, see Marilyn McCord Adams, “*Fides quaerens intellectum*: St. Anselm’s Method in Philosophical Theology,” *Faith and Philosophy* 9 (1992): 409–35.

<sup>3</sup> In his *Epistola de Incarnatione Verbi* 6, Anselm notes that the existence of the God of the Trinity has been demonstrated to the reader in both his *Proslogion* and *Monologion* by “necessary reasons” (“Si quis legere dignabitur duo parva mea opuscula, *Monologion* scilicet et *Proslogion*, quae ad hoc maxime facta sunt, ut quod fide tenemus de divina natura et eius personis praeter incarnationem, necessariis rationibus sine scripturae auctoritate probari possit,” ed. Schmitt, 2:20). For the various senses in which the reader may understand a proof determined according to necessary reasons (which extend from the conclusions of a deductive syllogism to conclusions that are deemed fitting or suitable), see Victor W. Roberts, “The Relation of Faith and Reason in St. Anselm of Canterbury,” *The American Benedictine Review* 25 (1974): 494–512. On Anselm’s understanding of reason, faith, and truth in the *Proslogion*, see Yves Cattin, “*Proslogion* et De Veritate, ‘Ratio, Fides, Veritas,’” in *Les mutations socio-culturelles au tournant des XI<sup>e</sup>–XII<sup>e</sup> siècles*, Actes du Colloque international du CNRS, Études Anselmiennes (IV<sup>e</sup> session) (Paris, 1984), 595–610.

<sup>4</sup> Anselm remarks that it should suffice for one investigating the Trinity that, although in the deepest sense the *how* of the Trinity remains incomprehensible, still it can be proved by necessary reasons *that* God is trinitarian: “Sufficere namque debere existimo rem incomprehensibilem indaganti, si ad hoc ratiocinando pervenerit ut eam certissime esse cognoscat, etiamsi penetrare nequeat intellectu quomodo ita sit; nec ideo minus iis adhibendam fidei certitudinem, quae probationibus necessariis nulla alia repugnante ratione asseruntur, si suae naturalis altitudinis incomprehensibilitate explicari non patiantur” (*Monologion* 64, ed. Schmitt in *Opera omnia* 1:75). On the sense implied by necessary reasons, see also Paul Vignaux, “Nécessité des raisons dans le *Monologion*,” *Revue des sciences philosophiques et théologiques* 64 (1980): 3–25.

tempts to prove, in some sense, the necessity of the Incarnation. There, as part of a continuing effort to establish fitting or necessary reasons to support the claims of faith, Anselm aims to show why God had to become human in order to provide the satisfaction that justice demanded, and to show why his Atonement was the most fitting in order to restore fallen humanity. In his preface, Anselm remarks that in the first book of *Cur Deus homo* he will treat the matter leaving Christ to one side, as if nothing were known of him, and “prove by necessary reasons that it is impossible for anyone to be saved without him.”<sup>5</sup>

Anselm’s theory of the Atonement, which, significantly, rejected the ransom theory that protected the devil’s just rights over humanity, insisted instead upon a theory of adequate satisfaction. “Adequate” implies providing a satisfaction equal to the indignity or dishonor caused by the offense resulting from the sin of our first parents. Insofar as this original sin<sup>6</sup> and its consequences, including the loss of original justice,<sup>7</sup> are inherited by all their posterity, the obligation to offer satisfaction for their crime falls upon all humanity. Since we cannot offer adequate satisfaction because we have nothing left to give which we do not already owe to God, then God must give what *iustitia* demands and it is God who must offer satisfaction for us.<sup>8</sup> Yet in order to provide satisfaction for *us*, man must give it. The only way out of the impasse is, for Anselm, to be discovered in the Incarnation of the God-man. The God-man, then, can and must offer satisfaction to God—a satisfaction of infinite value—giving himself over to death for all mankind.

<sup>5</sup> “... probat rationibus necessariis esse impossibile ullum hominem salvari sine illo” (Anselm, *Cur Deus homo*, praef., ed. Schmitt in *Opera omnia* 2:42). Although Anselm invokes “necessary reasons,” G. R. Evans has argued that in this work Anselm seeks no more than to discover suitable, commonsense arguments that will appear convincing to any openminded listener; see Gillian R. Evans, “The *Cur Deus Homo*: The Nature of St. Anselm’s Appeal to Reason,” *Studia Theologica* 31 (1977): 33–50.

<sup>6</sup> For Anselm’s understanding of original sin, see Raymond-M. Martin, “La question du péché originel dans Saint Anselme (1099–1100),” *Revue des sciences philosophiques et théologiques* 5 (1911): 735–49; P. J. Toner, “St. Anselm’s Definition of Original Sin,” *The Irish Theological Quarterly* 3 (1908): 425–36; François de Paule Blachère, “La péché originel d’après Saint Anselme,” *Revue Augustinienne* 6 (1905): 241–55; and W. F. Ewbank, “Anselm, on Sin and Atonement,” *Church Quarterly Review* 146 (1948): 61–67.

<sup>7</sup> A. Michel, “Justice originelle,” *Dictionnaire de théologie catholique* (Paris, 1902–72), 8:2020–42.

<sup>8</sup> For Anselm’s conception of *iustitia* as the restoration of the right order of things, cf. Robert D. Crouse, “The Augustinian Background of St. Anselm’s Concept *Iustitia*,” *Canadian Journal of Theology* 4 (1958): 111–19; and John H. Sheets, “Justice in the Moral Thought of St. Anselm,” *Modern Schoolman* 25 (1947–48): 132–39.

Although Anselm did not have a "school," properly speaking, in part because later figures, like Thomas Aquinas, turned aside from his doctrine of the Atonement,<sup>9</sup> still many of his ideas are shared by and reflected in the work of his contemporaries.<sup>10</sup> Among them one may identify Odo of Tournai (†1113). Odo's *Disputatio contra Judaeum Leonem nomine de adventu Christi filii Dei* (*Disputation with the Jew, Leo, Concerning the Advent of Christ, the Son of God*) and his *De peccato originali* (*On Original Sin*) treat many of the same questions that Anselm addresses and in a similar manner.<sup>11</sup> Their similarities have led most historians to infer that in some sense Odo was Anselm's disciple. However, since it is possible that Odo wrote *De peccato originali* before 1099—perhaps as early as 1096—there arises the possibility that Odo's treatise antedates both Anselm's *Cur Deus homo* (completed in 1098) and his later work treating original sin, namely Anselm's *De conceptu virginali et de originali peccato* (completed between the summers of 1099 and 1100).<sup>12</sup> As a result, based on the date of composition alone one cannot demonstrate that in *De peccato originali* Odo is dependent upon Anselm's two treatises, although both authors share the view that original sin is the result of the loss of that original justice Adam possessed.<sup>13</sup>

<sup>9</sup> See Jerry Bracken, "Thomas Aquinas and Anselm's Satisfaction Theory," *Angelicum* 62 (1985): 501–30.

<sup>10</sup> For Anselm's theory and its subsequent impact, see D. E. De Clerck, "Questions de sociologie médiévale," *Recherches de théologie ancienne et médiévale* 13 (1946): 150–84.

<sup>11</sup> Both of these treatises are available in translation in Odo of Tournai, "*On Original Sin*" and "*A Disputation with the Jew, Leo, Concerning the Advent of Christ, the Son of God*": *Two Theological Treatises*, trans. Irvén M. Resnick (Philadelphia, 1994) [hereafter *Two Theological Treatises*]. All citations will be from this text. I shall also provide a reference to the Migne edition, but the reader should be aware that my translation sometimes emends the edition in Migne based on an examination of the manuscript tradition.

<sup>12</sup> On the arguments surrounding the date of Odo's *De peccato originali*, see *Two Theological Treatises*, 25–26 and 111–12 n. 146. For the dating of Anselm's work, see *Anselm of Canterbury*, ed. and trans. Jasper Hopkins and Herbert Richardson, 4 vols. (Toronto and New York, 1974–76), 3:259 n. 1.

<sup>13</sup> For Anselm's understanding of original sin as the loss of original justice, see *De conceptu virginali et de originali peccato* 1–2, ed. Schmitt in *Opera omnia* 2:140–42. His equation of the loss of original justice with original sin appears also in the *Ysagoge in theologiam*, composed by a twelfth-century scholastic named Odo from the school of Abelard. For the relevant passage, see *Écrits théologiques de l'école d'Abélard. Textes inédits*, ed. Arthur Landgraf, Spicilegium sacrum Lovaniense, Études et documents, fasc. 14 (Louvain, 1934), 116. The *Ysagoge in theologiam* is dependent upon Anselm or Anselm's circle in another way as well: it borrows heavily from the very popular polemic written by Anselm's student, Gilbert Crispin, entitled *Disputatio Iudei et Christiani*. See Avrom Saltman, "Gilbert Crispin as a Source of the Anti-Jewish Polemic of the *Ysagoge in Theologiam*," in *Confrontation and Coexistence*, Bar-Ilan Studies in History 2 (Ramat-Gan, Israel, 1984): 89–99.

While Odo's *De peccato originali* may have been written before *Cur Deus homo* and *De conceptu virginali et de originali peccato*, Odo's second treatise concerned with the Incarnation, his *Disputatio contra Judaeum Leonem nomine de adventu Christi filiū Dei*, clearly is written after the two Anselmian works indicated above. Indeed Odo's biographer, Herman of Tournai (†1142), suggests that it was Anselm's *Cur Deus homo* that inspired Odo to compose his *Disputatio contra Judaeum*, and *Cur Deus homo* led Herman himself to compose his *De Incarnatione Christi*.<sup>14</sup> Herman contends too that Anselm's works (or at least some of them) were available in the library at Odo's monastery, St. Martin of Tournai.<sup>15</sup> Both *Cur Deus homo* and Odo's *Disputatio contra Judaeum* belong to the genre of apologetic literature and both were ostensibly written in order to address the criticism of Jews and others.<sup>16</sup> In addition, both share in the conception of adequate satisfaction as that which necessitates the Incarnation of the God-man for the redemption of humanity. Moreover, the arguments of both Odo of Tournai and Anselm on the necessity of the Incarnation were cited side by side in the early twelfth century, indicating that to their contemporaries as well the similarities were noticeable.<sup>17</sup>

As will become evident in what follows, both Anselm and Odo contend that, based on the presence of original sin in human nature and its consequences, reason can establish the claim that it is the God-man who must atone for Adam's sin, who must restore the right order to the world, and who must enable the divine purpose in the creation of humanity to achieve its end. Both argue as well that in order to fulfill this purpose the God-man must be born of a virgin and that it is the miraculous character of the Virgin Birth that ensures that the God-man is himself without sin, *not his divinity*. In addition, Anselm and Odo are the first medieval authors known to me to state explicitly that *anyone* born in the same miraculous manner

<sup>14</sup> See *Monumenta historiae Tornacensis*, ed. G. Waitz, MGH Scriptores 14 (Hannover, 1883; rpt. 1963), 268, lines 36–38; 269, lines 9–19. A text bearing the title *Tractatus de Incarnatione Jesu Christi domini nostri* is attributed to Herman of Tournai in PL 180:9–38.

<sup>15</sup> Cf. *Herimanni Liber de restauratione monasterii sancti Martini Tornacensis* 80, MGH Scriptores 14:313. For a study of the contents of Odo's library, see especially A. Boutemy, "Odon d'Orléans et les origines de la bibliothèque de l'abbaye de Saint-Martin de Tournai," in *Mélanges dédiés à la mémoire de Félix Grat*, 2 vols. (Paris, 1946–49), 2:179–222.

<sup>16</sup> While Anselm's work may have been written with Jews and Muslims in mind (cf. René Roques, "La méthode de Saint Anselme dans le 'Cur Deus Homo,'" *Aquinas. Ephemerides Thomisticae* 5 [1962]: 3–57), Odo's dialogue was evidently written for fellow Christians who, Odo remarks, had become lost among Jewish arguments. For a discussion of Odo's audience, see *Two Theological Treatises*, 29–32.

<sup>17</sup> They were so cited, for example, in Lambert's *Liber floridus*, completed about 1120. On this work, see Max Manitius, *Geschichte der lateinische Literatur des Mittelalters*, 3 vols. (Munich, 1911–31), 3:242–43.

as Jesus would, *ipso facto*, be born without sin. Nevertheless, it becomes evident that for both Odo and Anselm other miraculous births of this sort, though logically possible, are no longer theologically possible. In order to make clear their position, I would like to examine, below, the relationship between the miraculous nature of the God-man's birth and his sinlessness.

### I. ORIGINAL SIN AND THE VIRGIN BIRTH

While the problem of the Incarnation is the central concern of *Cur Deus homo*, Anselm focuses on the nature of original sin and its consequences especially in his *De conceptu virginali et originali peccato*, which was written soon after (composed 1099–1100). There it becomes clear that the sin of Adam is the sin of human nature, not resulting from a defect of created nature but resulting from the fact that Adam abandoned the original justice he was bound to safeguard.<sup>18</sup> This resulted in a loss of the original inclination or affection of the will for justice (defined as “the will's rectitude guarded for its own sake”).<sup>19</sup> The loss of original justice overturned the rectitude or right order of creation and brought about several consequences that affect not only Adam but all his posterity. Thus it is that original sin itself and its consequences are passed down to every individual sharing Adam's nature.

The manner in which this occurs is, for Anselm, not perfectly clear, and it remains uncertain whether Anselm should be depicted as a defender of creationism (namely, the view that God creates a new soul for each individual at conception or birth), or traducianism (that is, the view that each soul is descended from Adam's soul in a manner analogous to that by which each child is descended, materially, from its parents).<sup>20</sup> Odo of Tournai, by contrast, emerges as a clear opponent of traducianism and upholds creationism as Catholic doctrine.<sup>21</sup>

For neither Anselm nor Odo, however, are we bound by original sin or its debt simply because we are human persons. Adam is not a sinner because he is human, or a human person. Rather, each of us is bound by

<sup>18</sup> Anselm, *De conceptu virginali* 1–2, ed. Schmitt, 2:140–42.

<sup>19</sup> Anselm explains that “iustitia sit rectitudo voluntatis propter se servata . . .” (ibid. 5, ed. Schmitt, 2:147). On Anselm's conception of will, see Thomas A. Losoncy, “Will in St. Anselm: An Examination of His Biblical and Augustinian Origins,” in *Les mutations socio-culturelles*, 701–10.

<sup>20</sup> For traducianism, see A. Michel, “Traducianisme,” in *Dictionnaire de théologie catholique* 15:1350–66.

<sup>21</sup> For a discussion of the debate over creationism and traducianism in the twelfth century, and bibliography, see *Two Theological Treatises*, 22–28, and my “Odo of Tournai's *De peccato originali* and the Problem of Original Sin,” *Medieval Philosophy and Theology* 1 (1991): 18–38.

virtue of the fact that we are of the human nature that has descended from Adam by means of sexual intercourse or natural human reproduction. Prior to the fall, Adam was given both his rational will and a reproductive capacity. Reproduction demands matter or a body, for the soul does not reproduce itself through the will alone and apart from the body. But while human reproduction requires a body, it need not be subject to the carnal desires or affections of the body. Consequently, Adam could have reproduced and remained just if he had constrained his reproductive power within God's dictates and according to a rational will, rather than submitting himself to bestial desire. "But since Adam was unwilling to be subject to the will of God, although his reproductive nature remained, it was not subject to his will as it would have been had he not sinned."<sup>22</sup> Had it remained subject to his will and to justice, presumably it would have propagated bodies of a different sort, bodies suited for a heavenly or angelic existence.

Human reproduction, then, is not a punishment resulting from original sin. Even had Adam not sinned, he would still have received the gift of propagation as a power necessary to complete creation. Thus, Odo of Tournai contends that the power of human reproduction was conferred on men and women so that, by propagating new bodies for individual human souls, they might populate the heavenly city.<sup>23</sup> Indeed, for both Anselm and Odo because the number of angels available in the celestial Jerusalem is inadequate, it was *necessary* that Adam reproduce in order to perfect the heavenly city.<sup>24</sup> It is not the reproductive nature *per se*, then, that is sin. Rather it is the loss of original justice that has engendered a disordered will, affecting every outcome of our reproductive nature.

Since the procreative act is not itself sin, Anselm allows that now and again sexual intercourse can occur without sin, that is, without the consent of the rational will to the carnal affections of the body. Thus, sexual intercourse occurs sometimes without sin, in brute animals and within marriage.<sup>25</sup> Although it is a significant concession that intercourse within the bonds of marriage need not be sinful, it does not follow that the sacrament of marriage enables us to reproduce as Adam should have done before his sin, any more than baptism restores original justice itself. Baptism only

<sup>22</sup> "Quoniam vero Adam subditus noluit esse dei voluntati, ipsa natura propagandi quamvis remaneret non fuit subdita eius voluntati, sicut esset si non peccasset . . ." (Anselm, *De conceptu virginali* 10, ed. Schmitt, 2:152).

<sup>23</sup> See *Two Theological Treatises*, 53 (Odo, *De peccato originali* 2, PL 160:1081C).

<sup>24</sup> Cf. Anselm, *Cur Deus homo* 1.18–19, ed. Schmitt, 2:76–86; and *Two Theological Treatises*, 90 (Odo, *Disputatio contra Iudaeum*, PL 160:1107B).

<sup>25</sup> Anselm, *De conceptu virginali* 4, ed. Schmitt, 2:144.

remits the *debt* of justice we owed.<sup>26</sup> The consequences of original sin, however, remain. Perhaps for that reason, while Anselm remarks that we are not required to choose a life of perpetual virginity, he leaves no doubt that virginity is better than marriage. Only if one cannot sustain a choice of virginity should one choose marriage, which appears then as a lesser good and merely a remedy for evil.<sup>27</sup>

In sum, then, all suffer from original sin not simply because they are human persons, but because as descendents of Adam they reproduce Adam's nature. Moreover, "Since human nature—so complete in Adam that none of it was outside of him—dishonored God by sinning apart from any necessity . . . each time it is propagated by the reproductive nature given, it contracts sin together with the accompanying penalty for sin."<sup>28</sup> Reproduction requires both a body and will, for without each of these there can be no seed or semen. It appears, then, that while we are all descended from Adam in a material sense, contained in potency in the human seed or semen,<sup>29</sup> each subsequent generation is also tainted by the fact that it has recreated a nature that displays the same defect present in Adam's will.

Still, for Anselm the conception of the God-man is accomplished apart from this disorder of the will,<sup>30</sup> inasmuch as the reproductive act involved is not natural but miraculous. Since the God-man must be born without sin in order to accomplish the goals established in *Cur Deus homo* (for, if he were born a sinner, he would be no more able to offer an adequate satisfaction than anyone else), it is *necessary* that he be born miraculously. In this birth the will is not directed by carnal affections, and therefore the dis-

<sup>26</sup> See A. Gaudel, "Péché originel, Saint Anselme," in *Dictionnaire de théologie catholique* 12:440. Anselm explains that in general forgiveness does not entail the removal of the sin itself, but rather only the lifting of the debt one incurs on account of sin; see his *De potestate et impotentia, possibilitate et impossibilitate, necessitate et libertate*, ed. F. S. Schmitt in *Ein neues unvollendetes Werk des hl. Anselm von Canterbury*, Beiträge zur Geschichte der Philosophie und Theologie des Mittelalters. Texte und Untersuchungen 33/3 (Münster i.W., 1936), 37.

<sup>27</sup> See Anselm, *Cur Deus homo* 2.18, ed. Schmitt, 2:128. Cf. the view of marriage found in the *Sententie Parisienses* and the *Ysagoge in theologiam*, two texts from the first half of the twelfth century and associated with the school of Abelard. Both reflect the view that unlike the other sacraments marriage does not confer gifts but provides merely an "indulgence" or remedy for evil, insofar as it is given in order to restrain (and not eliminate) a disordered will. Cf. *Sententie Parisienses* and *Ysagoge in theologiam*, ed. Arthur Landgraf in *Écrits théologiques*, 44 and 196–97 respectively.

<sup>28</sup> "Quamobrem quoniam humana natura quae sic erat in Adam tota, ut nihil de illa extra illum esset, peccando sine omni necessitate deum exhonoravit . . . peccatum secum comitante poena peccati, quantumcumque per datam propagandi naturam propagetur, trahit" (Anselm, *De conceptu virginali* 10, ed. Schmitt, 2:152).

<sup>29</sup> Ibid. 23, ed. Schmitt, 2:163. See below, n. 55.

<sup>30</sup> Ibid. 13, ed. Schmitt, 2:155.

orientation of the will, which is sin, is not conveyed to the progeny. So, Anselm explains, even though the Virgin is called a sinner by virtue of her humanity, still sin is not in every part but only in the will, which is not contained in the seed or material of a human conception. Since sin is not in the material of the conception, and does not accede to the progeny from the will of the parent(s), it will be nowhere at all in this miraculous form of reproduction.<sup>31</sup> As a result, Anselm adds, "we can boldly [*libere*] conclude that no reason, no truth, no understanding permits that something of the sin of a sinful mass can have or ought to have come to a human being conceived by a virgin alone, although he arose from her, *even if he were not God*."<sup>32</sup> Moreover, "one can prove with an intelligible argument that a man conceived in this manner ought to be endowed with no less justice and happiness than in that state in which Adam was created, *even if he were not God but a mere man*."<sup>33</sup>

Very much the same notion is presented in Odo of Tournai's *De peccato originali*. In a section entitled "How Christ came without sin," Odo remarks,

It was said earlier that the power of propagation is given to the human soul so that it can propagate a human body from a human body by the cooperation of man and woman. . . . That which comes from the propagation of man and woman is not different from its source. Since Christ did not come from a marital union and was made in the Virgin from the holy Virgin, not from a conjugal act but by divine power alone, he properly lacked sin. Nor should one look for sin where there is only a divine work. More, he can rightly be without sin who was made apart from human action, so that one who was not made through men would not share sin with men.<sup>34</sup>

For both Anselm and Odo it appears that because the conception of Jesus occurs without normal sexual intercourse and is not subject to a (defective) human will he can, therefore, be brought forth without sin. For Odo, this feature becomes even clearer in the following passage:

<sup>31</sup> Ibid. 15 and 23, ed. Schmitt, 2:157 and 164.

<sup>32</sup> "... libere possumus concludere quia nulla ratio, nulla veritas, nullus intellectus permittit ad hominem ex sola virgine conceptum de peccato massae peccatricis, quamvis de illa sit assumptus, aliquid potuisse aut debuisse accedere, etiam si non esset deus" (ibid. 15, ed. Schmitt, 2:157); emphasis mine.

<sup>33</sup> "Insuper hominem ita conceptum esse debere praeditum non minori iustitia vel beatitudine, quam in qua factus est Adam, intelligibili ratione—etiam si non deus sed purus esset homo—probaretur" (ibid. 17, ed. Schmitt, 2:159); emphasis mine.

<sup>34</sup> *Two Theological Treatises*, 57 (Odo, *De peccato originali* 2, PL 160:1084B–C). Odo frequently reiterates that the Word is born of the Virgin, conceived without a human father and therefore apart from the conditions of human propagation by divine power alone. See his *Expositio in canonem missae*, PL 160:1064D–1065A.

The soul of Adam has joined guilt to the gift of propagation, and to the good of propagation which God gave he has added sin which he did himself. Those things which were joined in the beginning cannot be separated in posterity. For that reason, men who are born by human propagation carry sin by nature. . . . Accordingly, he whom human propagation did not produce can be without sin. Remove human propagation, and where will you find guilt? And on that account, Christ did not have guilt, because he did not have a human generation. Nor is human nature subject to sin except where there is human generation.<sup>35</sup>

This last assertion, that human nature is not subject to sin where there is no natural reproductive act, reflects Anselm's view as well. Like Anselm, Odo adds, "Now, where there is only a divine operation in propagation there is no guilt, unless you blame God. Therefore, Christ would have been born without sin *even if he were not God*."<sup>36</sup>

Precisely, then, because his creation was not according to *nature*, for that reason he does not suffer the burden of fallen nature, i.e., original sin. Conversely, "since the whole human soul in Adam is guilty of sin, it cannot be passed on to other persons without sin. . . . Every soul created after Adam, then, carries from its *natural* beginning something that in it is culpable."<sup>37</sup> By contrast, the God-man's conception in the womb of the Virgin is altogether outside of nature and is not in any way diminished by sin, which represents the privation of some good, viz., original justice. For most medieval authors, this birth is outside nature because it is accomplished apart from a seed, or at least apart from a male seed.<sup>38</sup> For this reason, it is perceived to be a unique and singular event in history which is impossible within nature.<sup>39</sup> It is something utterly new, fulfilling the prophecy of Jeremiah 31:22,<sup>40</sup> and it is a birth which comes to pass not only with-

<sup>35</sup> *Two Theological Treatises*, 57 (Odo, *De peccato originali* 2, PL 160:1084C–D).

<sup>36</sup> *Ibid.* (PL 160:1084D).

<sup>37</sup> *Ibid.*, 56 (PL 160:1084A); emphasis mine.

<sup>38</sup> Some medieval authors allow that in the birth of the God-man the seed of a woman was involved, although there was no male seed. Cf. Haimo of Auxerre, *Expositio in Epistolam ad Romanos* 1, PL 117:367A; *In Epistolam ad Ephesios* 4, PL 117:722A; and Anselm of Laon, *Glossa ordinaria: Epistola ad Ephesios* 5.24, PL 114:596D. Others make no mention of the woman's seed, but simply affirm that Jesus is born *sine semine et sine corruptione viri*; see Paschasius Radbertus, *De partu virginis* 1, ed. E. Ann Matter, CCCM 56C (Turnhout, 1985), 57. Perhaps the reference to Mary's seed in the birth process is a reflection of Galenic theories of conception, which would be increasingly challenged in the Middle Ages by Aristotelian principles. For this controversy, see Anthony Preus, "Galen's Criticism of Aristotle's Conception Theory," *Journal of the History of Biology* 10 (1977): 65–85.

<sup>39</sup> See Richard of St. Victor, *Sermo* 18, PL 177:933C.

<sup>40</sup> See Paschasius Radbertus, *De partu virginis* 1, ed. Matter, 57.

out intercourse (and therefore without a seed) but also without libidinal desire.<sup>41</sup>

## II. THE POSSIBILITY OF OTHER MIRACULOUS BIRTHS

Despite the explanation that Odo and Anselm offer that a miraculous birth is not subject to the conditions attached to natural reproduction, a number of difficulties emerge. Anselm addresses some of these when he is asked why other individuals who have been born in a seemingly miraculous fashion are not also then born without sin. In particular, what shall be said of John the Baptist, whose mother Elizabeth, prior to his birth, was barren [*sterilis*] and beyond childbearing age (cf. Luke 1:7; 1:18)? Shall John too be said to be born without sin? Anselm replies,

In John's case, and others like it, it is not that something new is given to Adam's nature, as it is in the Son of the Virgin, but that what was rendered infirm in these instances is known to be repaired. For which reason, since those were generated by means of the natural propagation bestowed upon Adam they can or should in no way be likened to him in whom we are interested with respect to the miracle of conception, so that they might be shown to be loosed from the bonds of original sin.<sup>42</sup>

The birth of John the Baptist, then, is certainly not a virgin birth nor truly a case of working, miraculously, outside nature. John's parents, Elizabeth and Zechariah, were not given a new nature, but rather to their infirm nature was restored a proper reproductive capacity.

Anselm has chosen but one example from which he has attempted to establish a general principle. That principle is not only that there have been no other virginal or miraculous births, but, in addition to the claim that the Virgin Birth is "something unheard of and unexpected and unprecedented within nature,"<sup>43</sup> Anselm is also committed to the view that there can be no others. The impossibility that there shall have been other births of this sort in the past or that there may be such births yet again in the future is certainly not a logical impossibility. What God has been able to do once God can certainly do again, insofar as divine power can never

<sup>41</sup> See Haimo of Auxerre, *Expositio in Epistolam ad Romanos* 8, PL 117:426D–427A.

<sup>42</sup> "Non ergo in Iohanne et similibus est aliquid novum naturae Adae, sicut est in filio virginis datum, sed quod suis causis infirmatum erat, cognoscitur esse reparatum. Quare quoniam illi per propagationem naturalem datam Adae sunt generati, nequaquam possunt aut debent ei de quo agimus in conceptionis assimilari miraculo, ut ab originalis peccati vinculo absoluti possint ostendi" (Anselm, *De conceptu virginali* 16, ed. Schmitt, 2:157–58).

<sup>43</sup> "... aliquid inauditum et inopinabile atque naturae incognitum ..." (ibid., ed. Schmitt, 2:157).

be diminished.<sup>44</sup> But Anselm assumes that other births of this sort, which could produce sinless progeny, are *theologically* impossible, i.e., *unsuitable*.

Why it should be unsuitable for God to intervene in nature again in this manner is not entirely self-evident, however. Although Anselm responds to the contention that if another person should be born without sin, then it would perhaps be unnecessary for God to become incarnate,<sup>45</sup> this is not wholly to the point. It is not necessarily the case that another individual born without sin would be able to offer adequate satisfaction for the sin of human nature, since there is no guarantee that such an individual should persevere in a sinless existence, any more than Adam did. As a result, even if Anselm should grant the possibility that others might be born in a miraculous manner without sin, he need not concede that such births would obviate the need for the Incarnation. Indeed, he remarks that, as he has shown in *Cur Deus homo*, if there were such a [sinless] person who was not God, he would be inadequate to redeem humanity.<sup>46</sup> Although sinless himself, if such a person or even an angel were to redeem a man, then the one he had redeemed would be indebted to him and would be his servant, in which case the order of original justice, according to which Adam was to serve only God, would remain unrealized.<sup>47</sup> Redemption, then, must be accomplished only by the *God-man*. Still, an admission that there could be others miraculously born without sin would complicate (perhaps hopelessly complicate) his task, namely to provide *necessary reasons* in support of Christian doctrine. At the very least, the possibility that another individual could be born without sin undermines the claim that the Incarnation is necessary for the redemption of *all* of humanity.

Anselm acknowledges the problem, however, and attempts to offer an explanation. This explanation attempts to defend both the necessity that the birth of the God-man be miraculous and that it be accomplished

<sup>44</sup> Anselm's conception of divine power is treated most fully in *Cur Deus homo* (see especially 2.17–18). William J. Courtenay provides a useful discussion of the development of this understanding of divine power in "Necessity and Freedom in Anselm's Conception of God," in *Analecta Anselmiana* 4/2 (Frankfurt/Main, 1975), 39–64; for a discussion of Anselm's "final solution" in *Cur Deus homo*, see 53–60.

<sup>45</sup> "Forsitan dicit aliquis: Si purus homo qui deus non esset potuit fieri de Adam sine omni peccati contagione . . . cur necesse fuit deum incarnari . . . ?" (Anselm, *De conceptu virginali* 17, ed. Schmitt, 2:158).

<sup>46</sup> Ibid.

<sup>47</sup> "An non intelligis quia, quaecumque alia persona hominem a morte aeterna redimeret, eius servus idem homo recte iudicaretur? Quod si esset, nullatenus restauratus esset in illam dignitatem, quam habiturus erat, si non peccasset: cum ipse, qui non nisi dei servus et aequalis angelis bonis per omnia futura erat, servus esset eius, qui deus non esset . . ." (Anselm, *Cur Deus homo* 1.5, ed. Schmitt, 2:52).

through a virgin mother. It is clear that is it not logical or rational necessity that compels God to use a *virgin* for a miraculous birth of this sort in order to bring forth a child born without sin. Indeed, "Although the Son of God was most truly conceived by the most pure virgin, this was not done out of necessity, as if it were rationally impossible for a just offspring to be generated from a sinful parent by a [miraculous] propagation of this sort, but because it was fitting that the conception of that man be accomplished by a most pure mother."<sup>48</sup> Moreover, it appears unsuitable that God should produce other individuals by means of a miraculous intervention at their conception since doing so might suggest that God had created the human natural reproductive capacity in vain or without good purpose.<sup>49</sup> Therefore it is fitting, even if not strictly necessary, both that the God-man should be born from a virgin and that such a miraculous birth, apart from our natural reproductive capacity, should never be repeated.

This directs our attention to two features: Mary's virginity and her extraordinary purity. Logically, as Anselm suggests above, even were she not a virgin, God could have brought forth a sinless progeny from her by means of a miraculous intervention. Certainly God most suitably chose a *woman* as the vessel for the Incarnation, for Anselm, primarily because this choice provides a certain symmetry for salvation history. In *Cur Deus homo* Anselm articulated four possible forms human generation might take: (1) in the natural way, that is from a man and a woman; (2) from neither a man nor a woman, as in the case of Adam; (3) from a man without a woman, as in the case of Eve created from Adam's rib; or (4) from a woman without a man.<sup>50</sup> Anselm dismisses 2 and 3 with the argument that God chose to be born of a woman so that women, from whom evil first entered the world, would not despair of their salvation. As once evil proceeded only from woman, God now wished to show that a pure good also can proceed from a woman. Moreover, prior to the Incarnation, Anselm avers, God had not yet chosen the fourth mode of operation. Therefore, he chose to be born from a woman in order to demonstrate that this last mode is also within his power.

It is not only fitting that a woman had been chosen to bear the Son; it is also most fitting that God chose a *virgin* for the birth of the Son in order to

<sup>48</sup> "Quamvis ergo de mundissima virgine filius dei verissime conceptus sit, non tamen hoc ea necessitate factum est, quasi de peccatrice parente iusta proles rationabiliter generari per huiusmodi propagationem nequiret, sed quia decebat ut illius hominis conceptio de matre purissima fieret" (Anselm, *De conceptu virginali* 18, ed. Schmitt, 2:159).

<sup>49</sup> "Idcirco etiam non fecit . . . ne si nullus de propagatione naturali salvaretur, frustra naturam illam in Adam condidisse . . . videretur" (ibid. 17, ed. Schmitt, 2:158).

<sup>50</sup> Anselm, *Cur Deus homo* 2.8, ed. Schmitt, 2:104.

complete the parallel to Eve's birth, for she too was born from a virgin, although from a man, viz., Adam.<sup>51</sup> While God certainly could have acted without contradiction to bring forth the God-man from a woman who was no longer a virgin, or even could have acted without a woman at all, to do so would have been entirely unsuitable. Anselm insists it is so clearly most appropriate for the God-man to be born from a virgin that it is even unnecessary to demonstrate it.<sup>52</sup>

In fact, it is not as evident as Anselm thinks. Anselm himself has made it clear elsewhere that virginity itself (i.e., the mere integrity of the body) is not necessarily more pleasing to God than a properly repentent spirit. In a letter, Anselm urges Gunnilda, King Harold's daughter, to return to the religious life. By way of encouragement, he remarks, "We know of many consecrated women who, after having lost virginity, pleased God more through penance and were more dear to him in their chastity than many others were in their virginity, even though they [too] were consecrated [holy]."<sup>53</sup> It is not virginity *per se*, then, that is necessary. But Anselm delights in and is overwhelmed by the symmetry indicated above. As Eve is created from a virgin it is fitting, too, that the Son be brought forth from a virgin. Consequently, when Anselm pursues this problem again in *De conceptu virginali*, he ignores altogether the possibility that God could as easily have brought about a miraculous birth from a non-virgin. Instead his purpose is to differentiate three different orders for events: the natural; the miraculous (subject to God's will alone); the voluntary (subject to our will and nature). Now, a virgin birth does not occur according to nature, nor is it voluntary (i.e., an act subject to the human will). Consequently it is miraculous and, therefore, free from the law that binds natural reproduction.<sup>54</sup>

The miraculous nature of the birth, however, helps Anselm to explain why one born in this manner will not contract original sin from Adam. Again, all human beings are "in" Adam from the very beginning, in the sense that they were existent in him as if in a material cause. Thus, "one

<sup>51</sup> "Si mulier quam fecit deus de viro sine femina, facta est de virgine, convenit valde ut vir quoque, qui fiet de femina sine viro, fiat de virgine" (ibid.). Herveus of Bourgdieu (Hervaeus Burgidolensis) adds that it is fitting that Jesus was born of a virgin, just as Adam was created from the virgin earth; see his *Expositio in Epistolam ad Romanos* 5, PL 181:663D.

<sup>52</sup> "Utrum autem de virgine aut de non-virgine dignius hoc fiat, non est opus disputare, sed sine omni dubitatione asserendum est quia de virgine deum-hominem nasci oportet" (Anselm, *Cur Deus homo* 2.8, ed. Schmitt, 2:104).

<sup>53</sup> "Scimus enim plures sanctas mulieres, quae post amissam virginitatem plus placuerunt deo et magis illi familiares fuerunt per paenitentiam in castitate, quam plures aliae, quamvis sanctae, in virginitate" (Anselm, *Epist.* 168, ed. Schmitt in *Opera omnia* 4:45).

<sup>54</sup> Anselm, *De conceptu virginali* 11, ed. Schmitt, 2:154.

cannot deny that infants were in Adam when he sinned. But they were in him causally, that is materially, just as if in a seed, while they exist personally in themselves."<sup>55</sup> While the Son of the Virgin was also "in" Adam, he was in him in an altogether different fashion. All other humans were in Adam as in a material cause, so that they could be brought forth from him in the natural reproductive manner, which lay within Adam's will and power. As the seed represents the material cause, the will represents the formal or efficient cause. But as at least one of these causes—viz., will—suffers the loss of original justice, all that which comes forth through natural reproduction as an effect of formal and material causes will reflect the deficiency of the cause as well. But the Son *alone* was not in Adam in this fashion, since his birth, being miraculous, did not lie within Adam's will or causal power. Although *Mary's* birth was subject to nature and will and, therefore, sin,

nevertheless the will of the creature did not bring forth a seed in her nor did nature germinate a child in her, but the "Holy Spirit" and the "power of the Most High" miraculously propagated a man from a virgin-woman. . . . Therefore he [the Son] was in Adam when he sinned in a very different way from the way in which those procreated in a voluntary and natural manner were. For Adam, in some sense, made those whom the human will procreates by bringing forth a seed, and nature procreates by germinating, by a power he received. But truly only God made that one, since he did not make him through Adam, but through himself as if from his own, although from Adam.<sup>56</sup>

Adam had not received the power to procreate apart from his nature and will, any more than the mire, from which Adam was created, had within it the power to bring forth Adam. *Adam's* creation was miraculous precisely because that efficient power did not belong naturally to the mire or earth. Similarly, Eve's creation was miraculous because the power to bring her forth from Adam's rib was neither natural to him nor possessed by him (or her). Nevertheless, Adam was "in" the mire and Eve was "in" Adam although neither one was created through a natural power but rather

<sup>55</sup> "Equidem negari nequit infantes in Adam fuisse cum peccavit. Sed in illo causaliter sive materialiter velut in semine fuerunt, in se ipsis personaliter sunt . . ." (ibid. 23, ed. Schmitt, 2:163).

<sup>56</sup> "... in illa tamen nec voluntas creaturae prolem seminavit nec natura germinavit, sed 'spiritus sanctus' et 'virtus altissimi' de virgine-muliere virum mirabiliter propagavit. . . . Valde itaque diverso modo iste erat in Adam quando peccavit, quam erant illi, qui voluntario et naturali cursu procreantur. Illos ergo quodam modo facit Adam, quos per acceptam potestatem humana voluntas seminando et natura germinando procreant; istum vero non nisi deus facit quamvis de Adam, quia non per Adam, sed per se velut de suo" (ibid., ed. Schmitt, 2:164).

through divine power. The power natural to the mire or Adam's rib was incapable of introducing to matter a human soul and will. In an analogous way, the God-man is said to have been "in" Adam, since he had to arise from the human race. But it seems that he was not "in" Adam as in a body—that is, the seed—naturally capable of bringing forth a human form. Rather he was "in" Adam in a way analogous to that in which Adam can be said to be "in" the mire or earth, from which Adam was generated miraculously and not through a natural potency.<sup>57</sup> Consequently, "the will of the creature did not bring forth a seed in her nor did nature germinate a child in her"; neither was the generation of the God-man from Adam subject to human will and power, but only subject to the divine will and power.<sup>58</sup>

Because all other human beings descended from Adam can be said to be "in" Adam as if in a material cause, *and* can be said to have been generated from Adam through his will and nature, all others inherit from Adam both his nature and the privation of his will at the same time. It is the nature to which the original sin of Adam has passed, but original sin belongs to the will. Therefore, although the God-man has assumed his nature from Adam, he has not done so from Adam's seed nor subject to Adam's will or power, and consequently has neither that sin which arose in the nature as a result of the defection of the will.

If his birth is not subject to Adam's will or power, neither is it subject to Mary's will or power. This is not to say that it occurs through Mary *in opposition to her will*, but only that her will and power could not, of themselves, have brought this miraculous birth about. While Anselm seems to assume the cooperation of her will, it is not an assumption rooted in some notion of her immaculate conception. Indeed, in both *Cur Deus homo* and *De conceptu virginali* he appeared resolutely opposed to a doctrine of Mary's immaculate conception and, indeed, emphasized the impurity of original sin she had contracted at her own birth:<sup>59</sup> she is purified of sin only by virtue of the purity of the God-man who will be born through her; his purity is in no way dependent upon her.<sup>60</sup> Although her purity, rooted in

<sup>57</sup> This does not imply that there was no seed at all involved in the conception of the God-man (see n. 38 above), but only that his seed was not produced from a created nature or by a natural potency. Nor was his seed inseminated with the pleasure that accompanies the act of procreation in fallen nature. See Anselm, *De conceptu virginali* 13–14, ed. Schmitt, 2:155–56.

<sup>58</sup> Anselm, *De conceptu virginali* 23, ed. Schmitt, 2:163–64.

<sup>59</sup> This despite the claim of Jean Fournée that Anselm's view seems to shift in his *De conceptu virginali*, approaching more nearly to the position of his disciple, Eadmer, on the immaculate conception. See his "Du 'De conceptu virginali' de saint Anselme au 'De conceptione sanctae Mariae' de son disciple Eadmer," in *Les mutations socio-culturelles*, 713–14.

<sup>60</sup> Cf. Anselm, *Cur Deus homo* 2.16, ed. Schmitt, 2:116 and 119.

faith, remains derivative, Anselm concedes that "it was fitting that the Virgin be resplendent with a purity than which a greater cannot be conceived, except for God's."<sup>61</sup> Further, throughout his works, his praise of Mary seems virtually boundless.<sup>62</sup> It is not surprising, then, that Anselm should insist that it is especially fitting that the Most Pure be brought forth from one who is herself made pure, even if this should not prove rationally necessary.

Anselm assumes that, from Adam and Eve until the God-man, there have been no other births occurring outside nature and in a miraculous manner. He also assumes that *after* the birth of the God-man the repetition of such a miracle is unnecessary. Since God does nothing that is useless or without purpose, Anselm may feel confident in both of these assumptions. He may feel confident too that he has shown that although a miraculous birth of this sort, resulting in a sinless progeny, need not rationally occur through a virgin, it is most fitting that it does.

Such assumptions could come under scrutiny, especially among the Jews who were, at least in principle, one audience for his *Cur Deus homo* and for Odo's *Disputatio contra Iudaeum*.<sup>63</sup> Both Jews and Christian writers were familiar with other virgin births, at least if we are to understand virginity here in a clinical sense as the physical integrity of the body, or one in which no sexual intercourse occurred. Peter the Venerable's *Adversus Iudeorum inveteratam duritiem* provides a good example derived from Jewish tradition, the *Alphabet of Ben-Sira*.<sup>64</sup> According to legend, Jeremiah was forced by a group of youths to masturbate in a bathhouse. When his daughter entered the bath later, she became pregnant from his seed, which had become mixed in the bathwater. Ben-Sira was born as a result. Such a birth, centuries before the birth of the God-man, occurred without sexual intercourse and would seem to represent a virgin birth. This example of a "virgin" birth comes from before the New Testament era, and references in the Talmud to such pregnancies suggest that it was not an isolated

<sup>61</sup> "... decens erat ut ea puritate, qua maior sub deo nequit intelligi, virgo illa niteret . . ." (Anselm, *De conceptu virginali* 18, ed. Schmitt, 2:159).

<sup>62</sup> See especially his *Oratio* 7 (*Oratio ad sanctam Mariam pro impetrando eius et Christi amore*), ed. Schmitt in *Opera omnia* 3:18–25.

<sup>63</sup> This, however, must be understood rather loosely. If these texts were intended to satisfy Jewish audiences, their assumption of the universality of original sin violated, from the outset, Jewish principles. Cf. Gilbert Dahan, "Saint Anselme, les Juifs, le Judaïsme," in *Les mutations socio-culturelles*, 525.

<sup>64</sup> Peter the Venerable, *Adversus Iudeorum inveteratam duritiem*, ed. Yvonne Friedman, CCCM 58 (Turnhout, 1985), xxxi.

example.<sup>65</sup> Nevertheless, because a human seed is involved in Ben-Sira's birth, for Anselm it would not represent truly a *miraculous* birth apart from the natural human capacity for reproduction. A human seed (as well as the will) was involved, even if not sexual intercourse.

While Anselm died before the composition of Peter the Venerable's *Adversus Judaeorum inveteratam duritiem* (ca. 1140–50), he may yet have been familiar with traditions that were beginning to appear of miraculous births in which the mother's virginity was *restored* after the delivery thanks to Mary's intervention. Aelred of Rievaulx tells the story of a nun of Watton whose virginity was miraculously restored after she was delivered of a child in her sleep.<sup>66</sup> Although Aelred's testimony is from ca. 1150–60, it may reflect older traditions regarding births in which virginity was miraculously restored to the mother.<sup>67</sup> The restoration of virginity was certainly regarded as a miracle, and was a divine prerogative that Peter Damian had defended in the second half of the eleventh century in his *De divina omnipotentia*.<sup>68</sup> Anselm may have been acquainted with Damian's treatise,<sup>69</sup> as well as with reports of cases in which virginity had been restored.

Again, however, these instances do not provide evidence of a virgin birth in the strongest sense, that is, one in which virginity is preserved *ante partum*, *in partu*, and *post partum*, as had been claimed for Mary. While they involved miraculous intervention, the miracle here only occurs after the birth, in association with it, while the conception and birth themselves follow sexual intercourse and the customary course of nature. Of essential importance is that in the birth of the God-man the (created) semen is not present, nor the will as a power of body affected by carnality.

More to the point than the examples cited above, however, might be the case of the "dry bones" cited in Ezekiel 37:7, which are miraculously clothed with flesh and brought to life. Neither Anselm nor Odo cite this

<sup>65</sup> At Hagigah 14b–15a, Talmud considers the case of whether a high priest may marry a woman who is pregnant but in whom the signs of virginity remain intact. Also, the possibility that a virgin may conceive in a bath, as in the case of Jeremiah's daughter, is contemplated.

<sup>66</sup> See Giles Constable, "Aelred of Rievaulx and the Nun of Watton: An Episode in the Early History of the Gilbertine Order," in *Medieval Women*, ed. Derek Baker, Studies in Church History, Subsidia 1 (Oxford, 1978), 205–26.

<sup>67</sup> For the Latin text of one such tale, see J. A. Herbert, "A New Manuscript of Adgar's Mary-Legends," *Romania* 32 (1903): 417–18.

<sup>68</sup> For a study of this text, see my *Divine Power and Possibility in St. Peter Damian's "De divina omnipotentia"* (Leiden, 1992) as well as my "Peter Damian on the Restoration of Virginity: A Problem for Medieval Theology," *The Journal of Theological Studies*, n.s., 39 (1988): 125–34.

<sup>69</sup> According to Francesco Corvino, Anselm may have come into contact with Damian's treatise during his first exile in Campania, when he was at work on *Cur Deus homo*. See Corvino's "Necessità et libertà di Dio in Pier Damiani e in Anselmo d'Aosta," in *Analecta Anselmiana* 5 (Frankfurt/Main, 1976), 255.

instance, however, since for most Christian authors this was not viewed as an historical event so much as a prefiguration of the general resurrection to come.<sup>70</sup> As a result, Odo and Anselm are confident that the Virgin Birth represents an absolutely unique and singular historical event. It will not be repeated because, once the God-man has atoned for sin, it is unnecessary to reproduce this event. Although both had remarked that even if Jesus were not God he would have been born without sin, neither one actually contemplates that, as a real possibility, any other human being can or will enjoy a miraculous birth that releases him from the stain of original sin.

One cannot readily identify a historical encounter or dispute that may have engendered this attempt to free the God-man from the necessity of original sin by virtue of his miraculous birth. In general, one may point to a growing interest among Latin writers of the eleventh and twelfth centuries in the philosophical problem of the origin of the soul and its theological corollary, namely the manner in which original sin is transmitted. One would expect that as Anselm, Odo of Tournai, and others began to investigate the manner in which original sin is transmitted to human nature, they would be led to examine how the God-man assumed human nature but not the stain of original sin as well. This was certainly true for Odo, whose Jewish interlocutor in the *Disputatio contra Judaeum*, Leo, ridicules the Christian understanding of the Virgin Birth and contends that it would be impossible for God (that is, the God-man) to endure gestation and parturition without contracting impurity from his mother.<sup>71</sup> A satisfactory response will require some explanation of how the God-man may assume a human nature within the womb of his mother while avoiding the imputation of impurity or sin.

This discussion may indicate a growing awareness of the more contentious issues to appear in Christian-Jewish debate, including the Virgin Birth and the doctrine of original sin. Although both Anselm and Odo ignore the fact that a Jewish audience would reject the Christian understanding of original sin, a polemic from the first half of the twelfth century entitled *Dialogus inter Christianum et Judaeum de fide catholica* responds to Jewish objections and seeks to explain how the God-man escaped from original sin while assuming a human nature. In this dialogue, the Jewish

<sup>70</sup> Cf. Gregory the Great, *Homiliae in Hiezechihelam* 2.8.6, ed. M. Adriaen, CCL 142 (Turnhout, 1971), 340. Only when expedient was this text treated as referring to an event from history, as is evident in the Christian account of the Jewish-Christian disputation at Tortosa in the late thirteenth century. Cf. *Judaism on Trial: Jewish-Christian Disputations in the Middle Ages*, ed. and trans. Hyam Maccoby (Rutherford, N.J., 1982), 212.

<sup>71</sup> *Two Theological Treatises*, 95 (Odo, *Disputatio contra Judaeum*, PL 160:1110B-C).

interlocutor insists that Adam's sin belongs to Adam alone.<sup>72</sup> His Christian opponent replies, however, that "when Adam sinned, no human existed outside of Adam but Adam was every human; therefore, because Adam sinned, every human sinned, for that genus whence the entire human genus would come forth was present then at the same time in [his] body . . ."<sup>73</sup> Although the Jew in this dialogue does not challenge this explanation, he does raise a number of questions which derive from a consideration of original sin. Most important for us is his remark that since Jesus is a man, he must have been of the race of Adam. Consequently, according to Christian principles he too must be tainted with original sin, for "he was born of the body of a woman and [his] flesh was made from the flesh of Adam . . ."<sup>74</sup> His Christian opponent replies, "This one [Jesus] did not have original sin because he was not conceived in iniquity . . . for he was conceived and born of an immaculate virgin, begotten without the seed of a man and, for that reason, does not participate in original sin."<sup>75</sup> While all other humans inherit the burden of original sin because their conception is accompanied by carnal pleasure, in Christ's conception all *luxuria* is absent, and for this reason he derives no sin from sinful flesh.<sup>76</sup>

While the *Dialogus inter Christianum et Judaeum de fide catholica* reveals the influence of the work of Anselm and his disciple, Gilbert Crispin, it most likely emerged from the school of Laon sometime between 1123 and 1148.<sup>77</sup> It cannot, then, help us to locate the source for the discussion that Anselm and Odo introduce on the miraculous nature of the birth of the God-man. It does, however, give one some reason to suspect that Anselm and Odo may have been aware of Jewish objections to the doctrine of original sin, a doctrine which, once admitted, seemed to require an explanation for the sinless birth of the God-man.<sup>78</sup> Such awareness may have been partly responsible for their effort to indicate more precisely the man-

<sup>72</sup> *Dialogus inter Christianum et Judaeum de fide catholica*, PL 163:1052B–C.

<sup>73</sup> "... quando Adam peccavit, nullus homo erat praeter Adam, sed omnis homo erat Adam; igitur quia Adam peccavit, omnis homo peccavit; illud enim genus unde humanum genus procederet totum simul tunc in corpore aderat . . ." (ibid., PL 163:1052C).

<sup>74</sup> "Nam de corpore feminae natus est et caro de carne Adae factus . . ." (ibid., PL 163:1053D).

<sup>75</sup> "... ipse enim originale non habuit, quia in iniquitate conceptus non fuit . . . nam de immaculata virgine conceptus et natus sine virili semine genitus est ac proinde originalis culpae particeps non est" (ibid., PL 163:1053D–1054A).

<sup>76</sup> "Denique, dum in conceptu Christi omnis luxuria defuit, nullam de carne peccatrice maculam traxit . . ." (ibid., PL 163:1054B).

<sup>77</sup> See Anna Sapir Abulafia, "Jewish-Christian Disputations and the Twelfth-Century Renaissance," *Journal of Medieval History* 15 (1989): 122–23.

<sup>78</sup> Guibert of Nogent also alluded to these objections in his *Tractatus de Incarnatione contra Judaeos* 1.2, PL 156:493A, composed about 1111.

ner in which the miraculous birth of the God-man differed from that of all other human beings.

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## SUCCESSION AND INHERITANCE IN RUS' BEFORE 1054\*

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THE written sources give us little conclusive evidence concerning the practices of princely succession and inheritance in Rus' during its earliest period of recorded history. Under the year 1054 the *Povest' vremennykh let*, or the Primary Chronicle [PC], makes a tantalizing allusion to what appears to be the institution of a new system of succession by Yaroslav "the Wise."<sup>1</sup> The ambiguous text prompted historians to generate various interpretations of what has become known as Yaroslav's "testament." There are, in the main, two schools of thought on the question: the one holds that Yaroslav did not institute new practices of succession or inheritance,<sup>2</sup> and the other claims that he introduced what it calls a "ladder" or "rota" system of lateral succession.<sup>3</sup> Stated simply, the second view traditionally holds that "the death of any prince affected those who held lesser cities and the death of the prince of Kiev affected them all, being the signal of a general redistribution of thrones, each prince moving one step up the political ladder."<sup>4</sup>

Yaroslav evidently did instruct his heirs to use a "ladder" system but, as I have argued elsewhere,<sup>5</sup> it was more refined than the description given

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<sup>1</sup> "Ipat'evskaya letopis'" [Ipat.], *Polnoe sobranie russkikh letopisey* [PSRL], vol. 2, 2d ed. (St. Petersburg, 1908; rpt. Moscow, 1962), cols. 149–50; "Lavrent'evskaya letopis'" [Lav.], PSRL 1, 2d ed. (Leningrad, 1926; rpt. Moscow, 1962), col. 161; *Novgorodskaya pervaya letopis' starshego i mladshego izvodov* [NPL], ed. A. N. Nasonov (Moscow and Leningrad, 1950), 181.

<sup>2</sup> For example, V. I. Sergeevich, *Veche i knyaz'* (Moscow, 1867), 273, 302–3; A. Presnyakov, *Knyazhoe pravo v drevney Rusi* (St. Petersburg, 1909), 34–68; A. D. Stokes, "The System of Succession to the Thrones of Russia, 1054–1113," in R. Auty, L. R. Lewitter, and A. P. Vlasto, eds., *Gorski Vijenac: A Garland of Essays Offered to Professor Elizabeth Mary Hill* (Cambridge, 1970), 268–75.

<sup>3</sup> S. M. Solov'ev, *Istoriya Rossii s drevneyshikh vremen*, bk. 1, vol. 2 (Moscow, 1962), 343–49; V. O. Klyuchevskiy, *Kurs russkoy istorii*, vol. 1 (Moscow, 1956), 169–89; M. Hrushevs'ky, *Istoriia Ukrainy-Rusy*, vol. 3, 2d ed. (L'vov, 1905; rpt. New York, 1954), 193–99; and others.

<sup>4</sup> G. Vernadsky, *Kievan Russia* (New Haven, 1948), 179–80 (quotation on 180).

<sup>5</sup> M. Dimnik, "The 'Testament' of Iaroslav 'The Wise': A Re-examination," *Canadian Slavonic Papers* 29 (1987): 369–86.

above. I have attempted to show that Yaroslav designated his three eldest sons—Izyaslav of Turov, Svyatoslav of Chernigov, and Vsevolod of Pereyaslavl'—and their descendants as the only legitimate heirs to Kiev. They were to follow a lateral system of succession. After Izyaslav's death the eldest surviving brother would succeed him to Kiev, and so on. All of Yaroslav's six sons, not just the three eligible to rule Kiev, were given patrimonial domains. Each family—for example, the Svyatoslavichi of Chernigov—was expected to follow the order of lateral succession in its domain in imitation of the system set up for Kiev. Princes were forbidden to usurp the towns of other princes. An *izgoi* or a prince whose father had failed, for whatever reason, to rule Kiev or a town to which he had a legitimate claim was debarred from ruling that town. It was imperative that genealogical seniority within a princely family, as well as between different princely families, be carefully recorded from generation to generation. Violations of the system occurred either when genuine confusion concerning the order of succession between princes arose or when maverick princes challenged the rights of legitimate claimants.

In contrast to the much-debated "testament" and the practices which it seemingly initiated, the nature of princely succession and inheritance before Yaroslav's "reform" is less known. It is the purpose of this investigation to address the lacuna. We will investigate important questions such as the following: What customs were generally recognized by the princes of Rus' and how faithfully were they observed? What was the relationship between succession and inheritance? What part did genealogical seniority play; was the eldest son always the designated successor to his father? Is there any evidence of a "ladder" system of succession which may have served as the model for the one allegedly introduced by Yaroslav? We will also consider questions such as these: Were there "legitimate" and "illegitimate" heirs? Did the status of *izgoi* or debarred prince exist? To what extent did pagan and Christian practices influence succession? Was there a hierarchy of importance for domains and how was it determined?

The PC and other sources not only give us little precise information concerning princely succession and inheritance, but the reliability of that information is frequently questionable. For example, the reports of the PC that have come down to us were written not by contemporaries but by authors living more than a century later. By that time popular memory had become blurred and muddled. Moreover, the chroniclers, who were in the main monks, wrote with a Christian bias. They inevitably attempted to whitewash any pagan or incriminating actions of Vladimir the Christianizer

of Rus' and his heirs.<sup>6</sup>

Despite the various constraints under which the investigator must work, we may assume that traces of the pristine princely practices have been preserved in the written sources. By critically sifting through the inaccuracies, errors, political biases, and editing of monastic copyists, we hope to make some useful observations concerning the nature of princely succession and inheritance before the time of Yaroslav "the Wise." This will give us a better understanding of the overriding political problem that emerged after the death of Svyatoslav (†972). Rivalries between princely claimants for Kiev would plague the dynasty of Rus' from the second half of the tenth century until the Mongol invasion in the middle of the thirteenth century.

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The ruling dynasty of Rus', according to the PC, was descended from the semilegendary Ryurik, a Varangian prince of the clan of Rus'. The chronicler explains that during the middle of the ninth century three brothers, accompanied by their kin and all their people, came to rule the Slavic tribes which had invited them. Ryurik, the eldest of the three, settled in Ladoga; the second, Sineus, got Beloozero; the third, Truvor, went to Izborsk.<sup>7</sup> Two years after they arrived Sineus and Truvor died and Ryurik became the sole ruler. After that he moved to Lake Il'men where he founded Novgorod, made it his capital, and divided the towns under his jurisdiction among his men.<sup>8</sup>

The historical accuracy of this account is open to question, but, for our purposes, it is unnecessary to establish whether Ryurik's brothers were real or merely legendary personages.<sup>9</sup> Our aim is to determine, if possible, how succession and inheritance were perceived by the authors of the PC

<sup>6</sup> Many studies have been written on the nature of the PC; see, for example, A. A. Shakhmatov, *Razyskaniya o drevneyshikh russkikh letopisnykh svodakh* (St. Petersburg, 1908); V. M. Istrin, *Zamechaniya o nachale russkogo letopisaniya. Po povodu issledovaniy A. A. Shakhmatova v oblasti drevnerusskoy letopisi* (Leningrad, 1924); I. P. Eremin, "Povest' vremennykh let." *Problemy ee istoriko-literaturnogo izucheniya* (Leningrad, 1946); *Povest' vremennykh let*, pt. 2, "Prilozheniya," commentary by D. S. Likhachev, ed. V. P. Adrianova-Peretts (Moscow and Leningrad, 1950); M. Kh. Aleshkovskiy, *Povest' vremennykh let* (Moscow, 1971); and others.

<sup>7</sup> Under the year (hereafter, s.a.) 862: Ipat., col. 14; cf. Lav., cols. 19–20, which claims Ryurik occupied Novgorod. Concerning Ladoga, see Likhachev, *Povest' vremennykh let* 2:244–45.

<sup>8</sup> Ipat., cols. 14–15; cf. Lav., cols. 19–20.

<sup>9</sup> It is generally accepted that Sineus and Truvor were not historical figures; see Likhachev, *Povest' vremennykh let* 2:220–21, 234–38; B. A. Rybakov, *Kievskaya Rus' i russkie knyazhestva XII–XIII vv.* (Moscow, 1982), 298–99.

and their contemporaries. For example, it is important to note that, according to popular memory, the Varangians divided up their newly acquired territories between three brothers. In keeping with this tradition, the number three will be seen repeated on several occasions during later territorial divisions.<sup>10</sup> It is also noteworthy that after he became sole ruler Ryurik assigned towns to his men. They governed in his name in the capacity of administrators and tax collectors. Circumstantial evidence shows that none of the boyars retained the towns as their hereditary domains.

The chronicler reports that two men, Askol'd and Dir, who were not of Ryurik's family, but were boyars, obtained his permission to go with their kin to Constantinople. Whether they went to trade, or to offer their services as mercenaries, or to wage war is not stated. On arriving at Kiev they cut their trip short and asserted their rule over the townsmen who were subjects of the Khazars.<sup>11</sup> This information shows that Kiev was not under Ryurik's suzerainty and that he had no authority to appoint his lieutenants there. By seizing Kiev they were not acting on his behalf or in keeping with any accepted customs of succession and inheritance. Their action was one of appropriation. Just as Ryurik had asserted his rule over the Slavs of Ladoga, Beloozero, and Izborsk, so too Askol'd and Dir attempted to carve out a domain for themselves around Kiev.

Before his death in 879 Ryurik bequeathed his principality to his kinsman Oleg. He also entrusted his son Igor' into Oleg's custody because, the chronicler explains, Igor' was very young.<sup>12</sup> Three years later Oleg initiated an expansionist policy during the course of which he captured a number of towns and, following Ryurik's example, appointed lieutenants to administer them. In the same year, 882, he captured Kiev by means of a ruse: he won the confidence of Askol'd and Dir by claiming that he and his companions were merchants sent by Oleg and Igor'. Oleg took the two captive and justified his action with the words: "You are neither princes nor of princely stock, but I am of princely birth." Then he showed them Ryurik's son Igor' and killed them. Oleg made Kiev his new capital and ruled with princely authority, fortifying new towns and exacting tribute from sur-

<sup>10</sup> We shall see that Svyatoslav divided the domains of Rus' among three sons (Ipat., col. 57; Lav., col. 69), and later and more importantly, as we have seen, Yaroslav "the Wise" bequeathed Kiev to his three eldest sons and their descendants.

<sup>11</sup> Lav., cols. 20–21; Ipat., col. 15. It has been suggested that Askol'd and Dir were not Varangians but descendants of Kiy, the alleged founder of Kiev, and that they may not have ruled Kiev at the same time (Shakhmatov, *Razyskaniya*, 322–23; Likhachev, *Povest' vremennykh let* 2:251).

<sup>12</sup> Ipat., col. 16; Lav., col. 22. According to V. N. Tatishchev, whose information must be used with caution, Igor' was born in 875 (*Istoriya Rossiyskaya*, vol. 4 [Moscow and Leningrad, 1964], 113).

rounding tribes. He levied an annual tax of 300 *grivny* on Novgorod which, the chronicler retorts, the Novgorodians continued to pay to the Varangians until Yaroslav's death.<sup>13</sup>

Oleg's tactics and rationale for killing Askol'd and Dir are informative. He tricked the two boyars into meeting him. At a later date Ol'ga would use artifice in her multiple revenge on the Derevlyane.<sup>14</sup> Oleg's and Ol'ga's tactics and, as we shall see, those of princes after them<sup>15</sup> show that deceit and murder played an important part in the power struggles of the early rulers of Rus'.

Instead of merely evicting the two boyars Oleg eliminated them permanently. Perhaps the boyars' crime of assuming princely rights was, according to Varangian custom, punishable by death. We are not told. Given Oleg's uncompromising expansionist policy there can be little doubt that he was determined to remove the two boyars from Kiev whatever the cost. Surprisingly, he was compelled to rationalize his action, or so the chronicler would have us believe. On the one hand, Oleg accused the two Varangian boyars of arrogating to themselves the rights of princes. This was treachery. On the other hand, Oleg justified his own claim to Kiev, that is, the claim of Ryurik's family, on the grounds that he was a prince. Although his exact relationship with Ryurik is not explained, circumstantial evidence shows that he was neither Ryurik's brother nor son; he was probably Ryurik's closest surviving relative,<sup>16</sup> perhaps a first cousin. Following Ryurik's death the right of succession and the right to inherit Ryurik's domains devolved to Oleg. Indeed, when speaking to Askol'd and Dir, Oleg compared his political status to that of Ryurik's son Igor'. In his view, or more correctly in the opinion of the chronicler, Oleg and Igor' had the right to rule because they were of princely stock, that is, they were of Ryurik's dynasty.

What, then, was Oleg's political relationship to Igor'? Was Oleg regent during the boy's minority, was he a prince in his own right, or—as one view has it—did Oleg and Igor' share a type of dual rule or “diarchy.”<sup>17</sup> Chronicle evidence suggests that Oleg was prince in his own right. Al-

<sup>13</sup> Ipat., cols. 16–17; Lav., cols. 22–24.

<sup>14</sup> See, for example, s.a. 945 and 946: Lav., cols. 54–60; Ipat., cols. 42–48.

<sup>15</sup> At a later date, for example, Vladimir persuaded the boyar Blud to betray Yaropolk (s.a. 980: Lav., cols. 76–77; Ipat., cols. 64–65).

<sup>16</sup> See Solov'ev, *Istoriya Rossii* 1.1:138. For an examination of different views, see Likhachev, *Povest' vremennykh let* 2:249–50.

<sup>17</sup> A. P. Tolochko suggested that Askol'd and Dir, Oleg and Igor', and Ol'ga and Svyatoslav governed as dual rulers; see his *Knyaz' v Drevney Rusi: vlast', sobstvennost', ideologiya* (Kiev, 1992), 20–22.

though he acted as Igor's guardian, Igor' did not assume power when he came of age; Oleg remained absolute ruler until his death.<sup>18</sup> This claim is supported by Oleg's actions. As we have seen, in 882 he embarked on an expansionist campaign: he conquered neighbouring peoples; he fortified new towns; he appointed his administrators to govern them; he levied taxes; and he proclaimed Kiev his new capital to be "the mother of all Rus' towns."<sup>19</sup> Oleg's absolute power was also acknowledged by the chronicler in his report of the trade treaty between Rus' and Byzantium under the year 912, the year of Oleg's death. According to the document Oleg was "the Great Prince of Rus'."<sup>20</sup> Igor' who by that date was in his early thirties is not mentioned. Had Igor' been the prince of Kiev at that time the treaty would have been concluded in his name as it was in 945 when he was identified as "Igor', Great Prince of Rus'."<sup>21</sup>

In 913, after Oleg's death, absolute authority passed on to Ryurik's son Igor'.<sup>22</sup> It is significant to note that Oleg, evidently Ryurik's relative and probably of the same generation, bequeathed rule to Ryurik's son. The chronicler fails to report if Oleg himself had an heir; if he did, he chose to bypass his own son. We are not told why Oleg remained loyal to Igor' in this exercise of succession. Was Oleg honouring a pledge he had made to Ryurik or was he adhering to Varangian custom? If Oleg made a pledge to Igor', we are not told. His action, however, reflected a form of lateral succession, since Oleg, as the last prince of his generation, bequeathed Kiev to the eldest eligible prince of the next generation, Ryurik's son. This procedure suggests that Oleg was acting according to a predetermined plan of succession.

When Igor' assumed control of Kiev the order of succession was straightforward because he had no uncles or brothers. To judge from documentary evidence, he had a sister. In the trade agreement between Rus' and Byzantium recorded in the PC under the year 945, the names of a number of envoys from Rus' are given, including the following: "Ivar, envoy of Igor', Great Prince of Rus'"; "Vefast representing Svyatoslav, son of Igor'; Isgaut for the Princess Olga; Slothi for Igor', nephew [*netii*, i.e., born of a sister] of [Great Prince] Igor'"; and "Freystein for Haakon, nephew [*netii*] of [Great Prince] Igor'."<sup>23</sup>

<sup>18</sup> Solov'ev, *Istoriya Rossii* 1.1:138; cf. Rybakov, who claims Oleg was a usurper (*Kievskaya Rus'*, 312–13).

<sup>19</sup> Ipat., cols. 16–17; Lav., cols. 22–24.

<sup>20</sup> Ipat., col. 23; Lav., col. 33.

<sup>21</sup> Ipat., col. 35; Lav., col. 46.

<sup>22</sup> Ipat., col. 31; Lav., col. 42.

<sup>23</sup> The translation is taken from *The Russian Primary Chronicle: Laurentian Text*, trans. and ed. S. H. Cross and O. P. Sherbowitz-Wetzor (Cambridge, Mass., 1973 [3d printing]), 73; see

Assuming that the general rule of thumb applies here as in other accounts with lists of princes, namely, that the chronicler recorded the princes in order of political seniority, then we see that Igor's son Svyatoslav, even as a minor, ranked higher than his mother Ol'ga. Igor' had no first cousins or, rather, no name on the list is identified as belonging to one. However, he had two nephews: the one named Igor' stood in political precedence immediately after Ol'ga while Haakon ranked lower. To judge from the silence of the chronicles, they played no significant part in the future politics of Rus'. The evidence of the nephews also shows that Igor' had at least one sister and, perhaps, two if Haakon was the son of a second sister. It is noteworthy that the name of Igor's sister(s), if given on the list, is not identified as such, suggesting that she enjoyed no special political status.<sup>24</sup> Moreover, if her husband is one of the men named he also is not singled out, indicating that his marital bond gave him no special claim to power. As we shall see, the only personages with the right to supreme rule were members of Igor's immediate family: his son and his wife.

At the time of his death in 945 Igor', according to the PC, had only one son, Svyatoslav.<sup>25</sup> The latter succeeded him and inherited the entire land of Rus'. Even though Svyatoslav was still only a child the princeling began his reign immediately following his father's death.<sup>26</sup> As we shall see, the chronicler also reports that Svyatoslav did not begin his public career until the year 964; up to that year he lived in Kiev with his mother. What then was the formal relationship between mother and son during this period? Did Ol'ga act as regent or was she absolute ruler, as Oleg had been, until her own death?

The chronicler never defines Ol'ga's exact political status, but it is generally accepted that she acted as regent for Svyatoslav after his father's death. This is further supported by information given under the same year which states that Ol'ga was accompanied by Svyatoslav when she invaded the land of the Derevlyane to avenge her husband's murder. Even though

Lav., col. 46; Ipat., col. 35. The treaty was probably signed towards the end of the year 944 (Likhachev, *Povest' vremennykh let* 2:289).

<sup>24</sup> Cf. D. Ilovayskiy, who suggested that the women, other than Ol'ga, named on the list were probably princesses, relatives of Igor' (*Istoriya Rossii, Chast' pervaya, "Kievskiy period"* [Moscow, 1876], 36).

<sup>25</sup> As Ilovayskiy pointed out, we know that Svyatoslav had cousins, and perhaps even brothers (*ibid.*, 60), but our sources do not report the existence of the latter. Indeed, given that Igor' was a pagan, it would be surprising if he did not have concubines and a number of wives.

<sup>26</sup> Both the Hypatian and Laurentian chronicles begin the account of 946 with the heading "The beginning of Svyatoslav's reign" (Ipat., col. 46; Lav., col. 57).

both Ol'ga and Svyatoslav led the expedition it was the child's feeble attempt to throw a spear from horseback which served as the signal for the attack; this suggests he held supreme authority.<sup>27</sup> In the following year Ol'ga left her son in Kiev when she journeyed to Novgorod to establish trading-posts and collect tribute. Although she behaved in a manner reminiscent of Oleg, who had held absolute power, a Byzantine source suggests that in this instance as well Ol'ga was acting as regent. Constantine VII Porphyrogenitus, who died in 959 and was a contemporary, reported that Svyatoslav and not Ol'ga was the ruler of Novgorod.<sup>28</sup>

Ol'ga's status as regent is confirmed, albeit indirectly, in the account under the year 955 which describes her visit to the court of Emperor Constantine.<sup>29</sup> It is significant to observe that the chronicler never gives her the designation of princess. And yet, as noted above, both Oleg and Igor' were identified as "Great Prince" in their respective treaties with the Greeks. What is more, even when recording Ol'ga's activities in Rus' the chronicle never identifies her as "Princess" Ol'ga. This is important when we remember that the chronicler took great pains to distinguish between the boyar status of Askol'd and Dir and the princely rank of Oleg and Igor'. The chronicler's failure to identify Ol'ga as a princess was not an oversight; it was a reflection of fact. She was the daughter of a boyar from the town of Pskov.<sup>30</sup> This being the case, we may conclude that Prince Oleg's explanation to the boyars Askol'd and Dir why they could not rule Kiev was applicable to Ol'ga as well; because she was of boyar status she was ineligible to rule Kiev in her own right. That right belonged to her son Svyatoslav as prince. His superior status, as we have seen, was acknowledged under the year 945 in the list of names recorded in the trade agreement with Byzantium.

Ol'ga's official rank as Svyatoslav's political subordinate was that of regent, but her position was unique in the history of Rus'. The chronicler explains that she was not her son's tutor nor the commander-in-chief of his troops; those offices were held by the boyars Asmud and Sveneld.<sup>31</sup> Ol'ga's

<sup>27</sup> Lav., col. 58; Ipat., col. 46. Concerning the tradition of the prince as the commander-in-chief giving the signal for battle, see Likhachev, *Povest' vremennykh let* 2:301.

<sup>28</sup> Constantine Porphyrogenitus, *De administrando imperio*, vol. 1, ed. Gy. Moravcsik, trans. R. J. H. Jenkins, new rev. ed. (Washington, D.C., 1967), 56/57. Svyatoslav, evidently, did not live in Novgorod; the PC reports that after Ol'ga returned from Constantinople she lived with her son in Kiev (s.a. 955: Lav., col. 63; Ipat., col. 51).

<sup>29</sup> Lav., cols. 60–63; Ipat., cols. 49–52.

<sup>30</sup> The chronicler reports that Ol'ga was brought as wife for Igor' from Pskov (s.a. 903: Ipat., cols. 20–21; Lav., col. 29).

<sup>31</sup> Lav., col. 55; Ipat., col. 43.

political authority was greater. The leadership she demonstrated in organizing a punitive force against the Derevlyane, the prerogative with which she established laws and imposed tribute, and the authority with which she created trading-posts and collected tribute in the Novgorod regions show that she wielded supreme political control in the land, albeit, in the name of her son.

Why did the responsibility of regent fall on Ol'ga's shoulders? Why was this enviable position not filled by a blood relative? Since the chronicler neglects to tell us, let us posit a few plausible answers. As has already been suggested, evidently there was no male princely relative alive. Significantly, Igor's sister did not assume this role. It is noteworthy that even though she was a princess by birth she failed either to succeed him or to act as regent. This information suggests that a princess had no claim to political authority solely on the basis of her genealogy. Something more was required and Ol'ga, even though she came from a boyar family, satisfied that requirement. According to the chronicler she was a "wise" woman which, in contemporary terms, meant that she was cunning, resourceful, and energetic; there can be no doubt that her forceful personality played a deciding part in her assuming the office. Indeed, it has been suggested that it was owing to her strong personality that Ol'ga was able to remain regent for as long as she did even after Svyatoslav came of age.<sup>32</sup> In addition to her personal qualities her family associations made Ol'ga the obvious choice: she was Igor's widow and the princeling's mother.

The information that a woman assumed the rank of regent elicited no surprise on the part of the chroniclers. We may therefore conclude that in the eyes of later authors Ol'ga in no way violated the practices of princely succession and inheritance. We must, however, posit a caveat. If later scribes had any criticisms of Ol'ga they suppressed them because of their great respect for her. She, after all, was the first ruler of Rus' to adopt Christianity and, as monks, they considered themselves to be her spiritual sons. Given her exalted position it would have been inappropriate to levy accusations against her.

Under the year 964 we are told that Svyatoslav initiated a successful expansionist policy against the Khazars, Yasy, Kasogy, and Vyatichi; three years later he campaigned against the Bulgarians and captured eighty towns along the Danube, and he made one of them, Pereyaslavets, his cap-

<sup>32</sup> See P. P. Tolochko, *Drevnyaya Rus'* (Kiev, 1987), 44; Solov'ev, *Istoriya Rossii* 1.1:156–57. As has been noted above, A. P. Tolochko suggested that Ol'ga and Svyatoslav exercised a type of dual rule, a "diarchy" (*Knyaz' v Drevney Rusi*, 20–22); there is insufficient evidence to substantiate this contention.

ital.<sup>33</sup> Svyatoslav therefore renewed Oleg's policy of territorial expansion. As we have seen, Ryurik had consolidated his authority around Novgorod by appointing lieutenants to rule the surrounding towns. After Ryurik's death Oleg moved to Kiev expanding his domains to include the lands of the Derevlyane, Polyane, Radimichi, and Severyane; placing Novgorod into the hands of an official he made Kiev his capital. Svyatoslav, was determined to expand his domains even further to include the lands of the Yasy, Kasogy, and Khazars in the southeast and to incorporate Bulgaria in the southwest. For Svyatoslav the period of territorial growth was not yet over. The boundaries of his realm remained to be determined and this included selecting a new capital. Rejecting Kiev, just as Oleg had discarded Novgorod, Svyatoslav declared Pereyaslavets to be the center of his realm.

In 968, on being summoned by the Kievans to save their town from the nomadic Pechenegs, Svyatoslav returned to Kiev for the last time. After restoring peace he declared to his mother Ol'ga and the boyars that he would not remain in Kiev but move to Pereyaslavets. Two years later, according to the chronicler, he gave Kiev to Yaropolk his eldest son,<sup>34</sup> and to Oleg the younger one he gave the lands of the Derevlyane whose capital was Vrushch. On learning of these appointments the Novgorodians demanded that they also be given a prince, but both Yaropolk and Oleg refused to go to them. After the townsmen threatened to find a prince elsewhere if Svyatoslav failed to give them one he sent Vladimir, Malusha's son. Svyatoslav then set off for Pereyaslavets.<sup>35</sup>

The prince made his allocations at a time when he no longer considered Kiev to be the capital of his realm. Significantly, his view proved to be only a temporary aberration because two years later he was killed by the Pechenegs.

<sup>33</sup> Lav., cols. 64–65; Ipat., cols. 52–53. Both accounts say that Svyatoslav "sat [and] ruled here in Pereyaslavets" ("sede knyazha tu v Pereyaslavtsi"; s.a. 967: Lav., col. 65; Ipat., col. 53); that is, the chronicler uses the same formula ("to sit" and "to rule") he used for reporting that Oleg transferred his capital from Novgorod to Kiev ("sede Oleg knyazha v Kieve"; Lav., col. 23). Cf. Rybakov, who claims Svyatoslav did not transfer his capital but only his residence to Pereyaslavets (*Kievskaya Rus'*, 380).

<sup>34</sup> A number of later chronicles which contain the text of the PC identify Yaropolk as the eldest brother; see, for example, "Ermolinskaya letopis'" [Erm.], PSRL 23 (St. Petersburg, 1910), 8; "Ustyuzhskaya letopis', spisok Matsievicha" [Ust. (M)] and "Arkhangelogorodskiy letopisets" [Ust. (A)], PSRL 37 (Leningrad, 1982), 21, 60; cf. s.a. 978, "Gustinskaya letopis'" [Gust.], PSRL 2 (St. Petersburg, 1843), 248.

<sup>35</sup> Ipat., cols. 55–57; Lav., cols. 67–69; NPL, 119–21. According to the PC Svyatoslav had three sons. Yaropolk and Oleg were born of his wife or wives, but the third son, Vladimir, was born to Malusha, the stewardess (*klyuchnitsa*) of Svyatoslav's mother Ol'ga (Ipat., col. 57; Lav., col. 69; NPL, 121). Ilovayskiy suggested that all three sons were born of different mothers (*Istoriya Rossii*, 60). Although Svyatoslav may have practiced polygamy, there is no chronicle evidence that Yaropolk and Oleg were born of two mothers.

negs<sup>36</sup> and the center of his realm reverted to Kiev. Pereyaslavets played no permanent part in the future history of Rus'. It is noteworthy that despite his orientation towards Bulgaria, the domains Svyatoslav allotted to his sons were located entirely within the lands of Rus'.<sup>37</sup> Since the allocations he made in 970 proved to be his final ones they will serve as the basis for our investigation.

One of the most striking features of Svyatoslav's distribution of domains is that he made no provision for Pereyaslavets. We are not told who would inherit the new capital after his death. It would appear that the reason for this seeming neglect on the part of the chronicler is that succession to the capital was dictated by custom. A comparison with allocations made at a later date will provide a useful clue. As we shall see, when Svyatoslav's son Vladimir distributed towns to his sons he retained Kiev as his personal domain. After Vladimir died his eldest son succeeded him and moved to Kiev. We are not told whether or not this practice was already in place during Svyatoslav's lifetime. Just the same, later evidence shows that after Svyatoslav's death his eldest surviving son, Yaropolk, who was already prince of Kiev, succeeded him as ruler of Rus'. Given this information, it is most likely that Yaropolk would have inherited his father's capital had that still been Pereyaslavets at the time of Svyatoslav's death. Consequently, it is in Svyatoslav's allocation of domains that the principle of seniority is disclosed for the first time. According to this principle, after the father's death his eldest son succeeded him as prince of the capital town (viz., Kiev) and assumed all the authority of that office.<sup>38</sup>

Let us now examine the domains that Svyatoslav did distribute to his sons. First he allotted Kiev and Vrchii which were located in the middle Dnepr region;<sup>39</sup> it was only later and under duress that he conceded to give Novgorod. What was the relationship of the towns to each other? As we have seen, when Svyatoslav abandoned Kiev it lost the status of the capital. He looked upon Kiev, it would seem, as Oleg had looked upon Novgorod after Rurik's death when Oleg made Kiev his capital: Kiev remained an important town but subsidiary to the new capital, Pereyaslavets. Even

<sup>36</sup> See s.a. 972: Lav., col. 74; Ipat., cols. 61–62; NPL, 124.

<sup>37</sup> Solov'ev suggested that Svyatoslav probably considered Bulgaria to be his personal domain because he himself had conquered it. He looked upon the land of Rus' as the general inheritance of all the Rurikovichi. Svyatoslav's intention was to place the lands of Rus' into the hands of his family and then personally occupy Bulgaria (*Istoriya Rossii* 1.1:162–63).

<sup>38</sup> For a discussion of the principle of seniority, see Tolochko, *Knyaz' v Drevney Rusi*, 81–96.

<sup>39</sup> S. Solov'ev suggested that Yaropolk and Oleg were not only princes of Kiev and the lands of the Derevlyane, but that they also divided up all the remaining lands of Rus' between them (*Istoriya otnosheniy mezhdu russkimi knyaz'yami Rurikova doma* [Moscow, 1847], 43). There is no chronicle evidence for this assertion.

though Kiev may have lost its place of preeminence as the capital of Svyatoslav's expanding realm, it still retained the status of the most important town in the lands of Rus' proper. This is confirmed by the information that it had been the capital of Rus' since Oleg's day during the second half of the ninth century and that Svyatoslav gave it to his eldest son.

What was the relationship between Vrchy and Novgorod? Although Svyatoslav may have given the Derevlyane lands to his younger son, at least in part, because he wanted to keep the Kiev-Novgorod axis under the direct control of the elder son in Kiev, there is no chronicle evidence to substantiate this view. The report that Svyatoslav allotted Vrchy first, and that both Yaropolk and Oleg refused to serve as prince of Novgorod suggests that Svyatoslav and his sons looked upon Vrchy as the more desirable domain. Understandably, since Yaropolk was given Kiev, and since he would obtain tribute from Novgorod as a result, the invitation to rule the northern town held little attraction for him; but it is surprising to note, especially for a historian working with the advantage of hindsight, that Oleg rejected Novgorod. Did he fail to recognize the town's economic and political importance despite its commanding location on the profitable trade-route to the Greeks?

The chronicler's failure to criticize Oleg for his seemingly foolish decision in selecting Vrchy suggests that the prince's contemporaries did not consider it to be unwise. On the one hand, next to the Polyane the Derevlyane were the most powerful tribe in Rus'. This is confirmed by the position of preeminence chroniclers gave to the two tribes when enumerating the names of the various tribes of Rus', namely, they placed the Polyane and the Derevlyane at the top of each list.<sup>40</sup> Their importance is further established by the information that the Derevlyane alone considered themselves to be sufficiently strong to challenge Igor's succession to Kiev in 913;<sup>41</sup> indeed, they were the ones who eventually killed Igor.<sup>42</sup> Finally, when Ol'ga directed her energies against their Prince Mal to avenge her husband's murder,<sup>43</sup> one of her main objectives was to subjugate the most recalcitrant tribe in southern Rus'.

On the other hand, one reason why Novgorod may not have been desirable to Svyatoslav's son was that its inhabitants were too contentious. For example, one albeit late source of the PC has unique information. It in-

<sup>40</sup> Lav., cols. 10, 12–13; Ipat., cols. 8–9; see also s.a. 885: Lav., col. 24; cf. Ipat., col. 17, which in fact places the Derevlyane ahead of the Polyane.

<sup>41</sup> See s.a. 913 and 914: Lav., col. 42; Ipat., col. 31.

<sup>42</sup> See s.a. 945: Lav., col. 55; Ipat., col. 43.

<sup>43</sup> See s.a. 945 and 946: Lav., cols. 55–60; Ipat., cols. 43–48.

forms us that soon after occupying Novgorod, Ryurik had to quell a revolt by a rebellious faction.<sup>44</sup> The Novgorodians' bellicosity is also demonstrated in their ultimatum to Svyatoslav to give them a prince.<sup>45</sup> Finally, the town's great distance from Kiev may have dissuaded his son Oleg from going there. It should also be noted that the climate in the south was more salubrious and hunting more plentiful. The latter reason is not as frivolous as it might first appear because hunting was one of most important pastimes of princes during times of peace.<sup>46</sup>

Oleg's choice of the Derevlyane lands suggests that the vital political forces on which the princes relied for support during the second half of the tenth century were tribal associations. Princely power had not yet become centered on local domains modeled on Kiev; in the eyes of the princes, aside from Kiev no town—not even Novgorod, which had served as Ryurik's capital—met the requirements for a princely political base. In choosing between Vrchy, a domain whose power-base was its tribal organization, and Novgorod, a domain whose primary resource was its urban population, Oleg had no clearly defined precedent to follow. Indeed, if we disregard the legendary Sineus and Truvor, there was no period before 970 when more than one prince ruled in Rus' at any one time. These were formative years in the political structure of Rus' and there were few guidelines in place for determining inheritance.

Chronicle evidence demonstrates that in the eyes of Svyatoslav and his sons the Kiev-Vrchy axis, or more accurately the Polyane-Derevlyane territories, were considered to be the heart of Rus'. It should be noted, however, that in 970 Svyatoslav distributed only a portion of the territories that had been controlled by his father. For example, the regions centered around the towns of Polotsk, Turov, Smolensk, Murom, and Rostov as well as the territories of the Severyane and Vyatichi remained, as before, in the hands of Svyatoslav's lieutenants or local tribal princes.

A number of additional differences in the practice of allocating domains can be discerned between Svyatoslav and his three predecessors. For example, he made the distribution to his sons at the zenith of his career and not on his deathbed. Although Svyatoslav's case is the first recorded instance of a father giving away portions of his realm while he was still politically active, this does not mean that he initiated a new practice. Granted, there is no chronicle evidence to show that the practice existed during the

<sup>44</sup> See s.a. 864: "Patriarshaya ili Nikonovskaya letopis'," PSRL 9 (St. Petersburg, 1862), 9.

<sup>45</sup> See s.a. 970: Lav., col. 69; Ipat., col. 57.

<sup>46</sup> See Solov'ev, *Istoriya Rossii* 1.1:170. As we shall see, it was owing to a hunting incident that a feud sprang up between Oleg and Yaropolk (s.a. 975: Lav., col. 74; Ipat., col. 62).

reigns of Ryurik, Oleg, and Igor', but if it did they may well have ignored it. Each prince had only one eligible successor and he may have found it superfluous to allocate a part of his realm before his death; the sole surviving successor would inherit all the lands in any case. If Svyatoslav did initiate the practice, he may have been prompted to do so because he was eager to abandon Rus' for the Danube region. Whatever his motivation, it is noteworthy that his example, as we shall see, would be followed by his successors.

It is also important to note that Svyatoslav's family situation was significantly different from that of his predecessors: he was the first prince to have more than one son. Accordingly, he changed the political structure of Rus' by giving each son a domain; it is interesting to note that he considered only Yaropolk and Oleg, who were born in wedlock, as eligible for inheritance. He gave Novgorod to Vladimir, the son of a concubine, only as an afterthought. To judge from his initial allocations to Yaropolk and Oleg, custom dictated that only sons born of wedlock had the right to inherit territories and assume political authority. Vladimir was evidently not considered to be their equal. His position was different because he was born out of wedlock; he was debarred or an *izgoi*.<sup>47</sup> In the light of this evidence we may conclude that Svyatoslav broke custom when he gave Vladimir, a concubine's son, a domain; by doing so he set another precedent.

The genealogical distinction between Vladimir and Yaropolk was expressed most dramatically ten years later by Rogneda of Polotsk. She refused to marry Vladimir, even though he was prince of Novgorod, because, she proclaimed, he was the son of a slave;<sup>48</sup> instead, she declared her resolve to marry Yaropolk even though he already had a wife.<sup>49</sup> Her preference for a prince born in wedlock is significant. It implies that her

<sup>47</sup> We do not know if aside from Vladimir there were any other half brothers born of Svyatoslav's concubines. Indeed, it is fortuitous that we find out about Vladimir himself; if the Novgorodians had not made their demand, and if Vladimir's uncle Dobrynya had not suggested Vladimir as prince, he may have remained an insignificant figure in the history of Rus'. Cf. Solov'ev, who opined that it was not the wedded or unwedded status of the mother but her social rank (viz., princess, boyar, or slave) which determined a son's right of inheritance (*Istoriya Rossii* 1.1:164–65).

<sup>48</sup> See s.a. 980: Lav., cols. 75–76, where Rogneda declares her refusal "to pull off the boots of a slave's son." Rogneda's derision was unwarranted because, as Ol'ga's stewardess, Vladimir's mother had an office of authority; moreover, her brother, Dobrynya, was one of Svyatoslav's officials (Lav., col. 69; Ipat., col. 57). This suggests that the sister and brother belonged to a boyar family.

<sup>49</sup> Yaropolk married a Greek woman who had been a nun and whom Svyatoslav brought as a wife for Yaropolk because of her beauty (s.a. 977: Lav., col. 75; Ipat., col. 63).

political status with Yaropolk would be higher because of that consideration and, of course, because of his status as prince of Kiev.

Attention should be drawn to a similarity in the ages of the three Svyatoslavichi and the princes before them when they inherited domains: just as Igor' and Svyatoslav were minors at the time of their fathers' deaths and had to be placed under the protection of guardians, the three Svyatoslavichi were also under their grandmother's guardianship in 968,<sup>50</sup> and they were evidently too young to assume rule in their own right two years later when their father gave them domains.

Like his brothers, Yaropolk was given only one domain, albeit the most important one. It is also noteworthy that at the time he became prince of Kiev he did not succeed his father to supreme authority in Rus', as Svyatoslav himself had done when he succeeded his father Igor'. What then was Yaropolk's relation to his brothers while their father was still alive? The preeminence of Yaropolk's domain assured him at least a degree of supremacy over his brothers as did, presumably, his senior genealogical status in the family. But did Svyatoslav give Yaropolk any additional authority? To be sure, his appointment raises more questions than it answers. For example, was Yaropolk authorized to collect tribute from all the outlying tribes and towns, including those of his two brothers? As has been noted, in 882 Oleg had imposed tribute on Novgorod which it paid to Kiev until the death of Yaroslav "the Wise."<sup>51</sup> This suggests that Kiev continued to receive tribute from Novgorod during the first two years of Yaropolk's reign, that is, after Svyatoslav declared Pereyaslavets to be his capital. Did Yaropolk in turn pay tribute to Svyatoslav? In other words, should Kiev's situation after Svyatoslav moved to Pereyaslavets be compared to Novgorod's situation after Oleg moved to Kiev following Rurik's death? That is, since Oleg decreed that Novgorod pay a tax to Kiev the new capital, can we assume that Svyatoslav ordered Kiev to pay a tax to Pereyaslavets his new capital? The chronicler does not confirm this, but if our analogy is valid then Yaropolk, as his father's tax collector, enjoyed a favoured position in this respect as well.

It would appear that up to 970 the princes followed simple and more or less clearly recognizable practices of succession and inheritance. When Svyatoslav begot three sons he changed the political structure of Rus' and created the need to modify these practices. His decision to allocate domains to all three sons, and therewith to deprive the prince of Kiev of absolute authority, marked a watershed. The need to formulate and imple-

<sup>50</sup> Lav., col. 65; Ipat., col. 53.

<sup>51</sup> See s.a. 882: Lav., col. 24; Ipat., col. 17.

ment an even more complex "system" of succession and inheritance was accentuated after Svyatoslav's death because his heirs not only begot even more sons but also abandoned his policy of expansionism and adopted one of consolidation.

In 972 Yaropolk became the genealogically eldest and politically strongest prince in Rus'.<sup>52</sup> The PC neglects to tell us what prerogatives, if any, his genealogical and political status gave him over his brothers. Did he, for example, assume the role of the father over his younger brothers? Did he collect tribute from Vrchy as he evidently did from Novgorod? Or did the three brothers, as has been suggested by some, rule three independent and politically equal domains?<sup>53</sup> We are not told. Indeed, the little information we have concerning Yaropolk's relationship with them merely describes their rivalries. We are told that on one occasion when Oleg was on a hunt he caught one of Yaropolk's retainers poaching on his lands and killed him. This led to a feud between the two princes. In 977 Yaropolk attacked Oleg and the latter was killed; Yaropolk then appropriated his brother's domain. When Vladimir learnt of his half brother's fate he became frightened and fled to Scandinavia. After that Yaropolk appointed his mayors to Novgorod and "became the sole ruler in Rus'."<sup>54</sup>

Since Yaropolk had to seize Oleg's domain he evidently had no legal claim to it; Vrchy had been Oleg's private estate. Yaropolk appropriated Novgorod, Vladimir's patrimony, in like manner. As the chronicler ends his report with the observation that Yaropolk's usurpations made him the sole ruler in Rus', this confirms that prior to that time rule had been shared by all three brothers. Given that Oleg and Vladimir were allocated Vrchy and Novgorod as their patrimonies, we may assume that the same was true for Yaropolk; Kiev was his patrimony and after his death it would become the patrimony of his descendants. Consequently, just as Yaropolk had no right to appropriate their domains, his brothers had no right to rule Kiev.<sup>55</sup>

Around the year 980 Vladimir recaptured Novgorod with the help of the Varangians and expelled Yaropolk's officials with the following command: "Go to my brother Yaropolk and say this: 'Why did you kill my brother and your brother, and then seize his domains by yourself without dividing them with me. Because of this I am now marching against you with a great force,

<sup>52</sup> Ipat., col. 62; Lav., col. 74.

<sup>53</sup> Tolochko, *Knyaz' v Drevney Rusi*, 28.

<sup>54</sup> NPL, 124–25; Ipat., cols. 62–63; Lav., cols. 74–75.

<sup>55</sup> It should be noted that this practice was different from the one implemented at a later date by Yaroslav "the Wise" whose successor did not inherit Kiev as his private domain but ruled it in Yaroslav's name on behalf of the dynasty (see Dimnik, "The 'Testament,'" 375–77).

so prepare to defend yourself for the blood of your brother.'"<sup>56</sup> Vladimir accused Yaropolk of committing two crimes. The first was fratricide. According to Vladimir's declaration of war (viz., "prepare to defend yourself for the blood of your brother") Oleg's murder was the official reason for Vladimir's attack on Yaropolk. He appears to have been acting according to a customary moral code in avenging the death of his murdered brother. Second, Vladimir believed he had been wronged by Yaropolk because the latter had seized Oleg's territory without sharing it with him.<sup>57</sup> The latter and his own loss of Novgorod were, no doubt, the most pressing reasons why Vladimir went to war.

To judge from Vladimir's second accusation, Yaropolk did not enjoy special prerogatives concerning a dead brother's patrimony. Even though Yaropolk acted in conformity with contemporary pagan tradition which expected a victor to appropriate all the possessions, the lands, and the wife of the vanquished,<sup>58</sup> Vladimir objected. In his view Yaropolk had no right to confiscate Oleg's lands. His contention demonstrates that Yaropolk was not the ruler of a centralized state to whom a domain without a prince reverted by virtue of his office. Despite Yaropolk's political and genealogical seniority, Vladimir believed he had an equal claim to Oleg's lands. His demand demonstrates that Vrchy had been Oleg's independent patrimony and that under ordinary circumstances it would have been inherited by Oleg's son(s) as had been the case with Svyatoslav and his sons. Yaropolk appropriated Vrchy because Oleg had either no heir or none powerful enough to contest his action. Vladimir killed Yaropolk and, in 980, became the sole prince of Rus'; in the words of the chronicler, he began to rule "in Kiev alone"<sup>59</sup> in a manner reminiscent of his predecessors Oleg, Igor', and Svyatoslav.

<sup>56</sup> See s.a. 978: Ust. (M), 22, and Ust. (A), 61. For an examination of this unique information, see Ya. S. Lur'e, *Obshcherusskie letopisi XIV–XV vv.*, (Leningrad, 1976), 192. Concerning the reliability of this late source, see M. N. Tikhomirov, "Nachalo Russkoy Istorii," in *Russkoe letopisanie* (Moscow, 1979), 59–60; and K. N. Serbina, *Ustyuzhskoe letopisanie XVI–XVIII vv.* (Leningrad, 1985).

<sup>57</sup> In reporting Vladimir's demand to Yaropolk to divide their dead brother's domain the chronicler is not merely attempting to whitewash Vladimir's usurpation with a seemingly legitimate claim based on custom. Later evidence shows that the practice of dividing domains was followed: as we shall see, Mstislav made the same demand on Yaroslav; s.a. 1073 Svyatoslav divided Izyaslav's domains with Vsevolod; and s.a. 1077 Izyaslav divided Svyatoslav's domains with Vsevolod (M. Dimnik, *The Dynasty of Chernigov 1054–1146*, Studies and Texts 116 [Toronto, 1994], 89–90, 139–40).

<sup>58</sup> See, for example, the agreement between Mstislav and Rededya (s.a. 1022: Ipat., col. 134; Lav., cols. 146–47).

<sup>59</sup> Ipat., col. 67; Lav., col. 79.

Under the year 996 the chronicler tells us that "Vladimir loved his *druzhina* and consulted it on how to arrange the land and the land statute, and [asked its advice] on [waging] wars"; later in the account the chronicler adds: "Vladimir lived according to the structure of his grandfather and father" ("i zhivashe Volodimir po stroen'yu dednyu i otnyu").<sup>60</sup> Although the latter statement is formulaic and refers to the specific issues of the administration of domains and waging wars, it does shed some light on our investigation. If Vladimir followed the customs of his predecessors in these matters, it is reasonable to assume that he also followed their practices on issues such as succession and inheritance.

According to the PC, Vladimir had twelve sons: Vysheslav, Izyaslav, Svyatopolk, Yaroslav, Vsevolod, Svyatoslav, Mstislav, Boris, Gleb, Stanislav, Pozvzd, and Sudislav. He appointed Vysheslav to Novgorod, Izyaslav to Polotsk, Svyatopolk to Turov, and Yaroslav to Rostov. After Vysheslav died in Novgorod, Yaroslav was given that town, Boris moved to Rostov, Gleb went to Murom, Svyatoslav received the Derevlyane, Vsevolod was given Vladimir, and Mstislav occupied Tmutarakan'.<sup>61</sup>

This account gives us much useful information. We see, for example, that during Vladimir's reign political authority in Rus' became the monopoly of his family. His brother's sons, if there were any, were either debarred or, as we shall see in the case of Yaropolk's son Svyatopolk, adopted by Vladimir and given the rights enjoyed by all his sons. To judge from Vladimir's allocations, each son had the right to inherit a part of his father's domain. Following the example set by his own father Svyatoslav, Vladimir gave a domain to each son; he did not exclude those born out of wedlock. No doubt it would have been futile to make such a distinction as his sons were born of his numerous wives and concubines.<sup>62</sup> Even so, Vladimir made his allocations according to some form of genealogical hierarchy, but the chronicler fails to tell us how the order was determined.

<sup>60</sup> Ipat., cols. 111–12; Lav., cols. 126–27; cf. NPL, 167.

<sup>61</sup> See s.a. 988: NPL, 159; cf. Ipat., cols. 105–6, and Lav., col. 121. A number of sources add that Stanislav got Smolensk and Sudislav got Pskov (e.g., "Moskovskiy letopisnyy svod kontsa XV veka," PSRL 25 [Moscow and Leningrad, 1949], 365; cf. Gust., 259). According to still other copies, Vladimir kept Stanislav, Sudislav, and Pozvzd at his side because of their youth (Ust. [M], 24, and Ust. [A], 64). Concerning the discrepancy in the list of names between different sources, see Likhachev, *Povest' vremennykh let* 2:325–26, 342–43; and M. Millard, "Sons of Vladimir, Brothers of Yaroslav," *Cahiers du Monde Russe et Soviétique* 12 (1971): 286–87.

<sup>62</sup> For example, Rogneda of Polotsk bore him four sons, a Greek gave him Svyatopolk, a Czech gave him Vysheslav, and a Bulgarian and other women bore him additional sons (Ipat., col. 67; Lav., cols. 79–80; NPL, 128). Il'ovskiy suggested that given Vladimir's many wives and concubines, he probably had more than twelve sons; the Christian chronicler selected this number because of its apostolic association (*Istoriya Rossii*, 75).

Furthermore, it appears that during Vladimir's lifetime each son performed the function of a *posadnik*; he had to pay tribute<sup>63</sup> and obey his father in political matters. Evidently, the family association formed the basis for the political one. After Vladimir's death the domain to which each son had been appointed became his permanent possession. The oldest copies of the PC do not specifically declare that Vladimir allocated hereditary domains, but this is implied by the passage cited above stating that "Vladimir lived according to the structure of his grandfather and father."<sup>64</sup>

The actions of Vladimir's sons confirm that they considered their domains to be personal patrimonies. For example, in an effort to assert his control over Kiev, Svyatopolk sought to win the support of his younger brother Boris by promising to give him other domains in addition to his patrimony.<sup>65</sup> Later, after he had Boris and Gleb murdered and after he killed his brother Svyatoslav, Svyatopolk plotted to eliminate his remaining brothers so that, explains the chronicler, he would become the sole ruler of Rus'.<sup>66</sup> Since he did not have absolute authority in Rus' while his brothers were alive they obviously shared in governing the land. They did this as autonomous rulers of their own domains.

The behaviour of Vladimir's son Mstislav of Tmutarakan' also supports this contention. In 1022 he went to war with the neighbouring tribe of Kasogy. Rather than submit their men to slaughter, Mstislav and the Kasogian Prince Rededya chose to settle the conflict in single combat; should he lose, each man agreed to forfeit all his possessions, his wife, and his lands to the victor.<sup>67</sup> Mstislav's agreement with Rededya was the act of an independent ruler in that he found it unnecessary to seek the approval of a higher power to relinquish control of his own domain.

Even though Vladimir followed the "structure of his grandfather and father," his allocation of towns differed from his father's in a number of ways. Unlike Svyatoslav who gave Kiev to his eldest son because he considered the center of his realm to be in the Danube river basin, Vladimir,

<sup>63</sup> This is suggested by the information, as we have seen, that Novgorod continued paying tribute to Kiev from Oleg's reign until the death of Yaroslav. Furthermore, the year before his death Vladimir prepared to march against Yaroslav in Novgorod because the latter refused to pay him tribute (s.a. 1014: Ipat., cols. 114–15; Lav., col. 130).

<sup>64</sup> A late copy, the "Vologodskaya letopis'," asserts that "he gave them permanent inheritances" ("dade im nasledī vechno"; PSRL 37 [Leningrad, 1982], 161).

<sup>65</sup> Ipat., col. 118; Lav., col. 132; NPL, 170. Cf. Gust., 261–62, according to which Boris "remained in the principality that his father had assigned to him" ("no prestayashe na knyazhenii ezhe emu otets otdelil be"; Gust., 262).

<sup>66</sup> Ipat., col. 126; Lav., col. 139.

<sup>67</sup> Ipat., col. 134; Lav., cols. 146–47.

like Oleg, Igor', and Ol'ga, recognized Kiev as his capital. Rather than give it to his eldest son, as Svyatoslav had done, Vladimir kept it as his personal domain. In the light of this decision, it is noteworthy that he gave his eldest son Vysheslav the town of Novgorod. As we have seen, Svyatoslav had considered Vrchy and the lands of the Derevyane to be of greater importance than Novgorod. Vladimir recognized a different hierarchical order for the domains of Rus'. According to his revised classification, Novgorod, where he himself had ruled and whose inhabitants had helped him seize absolute authority, was second to Kiev. Vrchy was relegated to a place of much lesser importance; indeed, according to the chronicler, Vladimir did not give it to a son until his second round of allocations, at which time it was seventh after Kiev. Vrchy's change in status suggests that, in Vladimir's view, controlling important urban centers was more important than enjoying the support of tribal associations. Vladimir's hierarchical reordering of towns remained in place, almost without modification, until the death of his son Yaroslav "the Wise."

Vladimir was the first prince of Rus' to relocate a number of his sons after his initial distribution of domains. This evidence is noteworthy for it shows that as long as Vladimir was alive his sons' domains were under his absolute control; their territorial possessions had not yet become their independent patrimonies. Vladimir's prerogative enabled him to make a new appointment to the domain of a deceased son and to give new domains to the youngest sons as they came of age. For example, Vysheslav died prematurely while Vladimir was still prince of Kiev. As a result Vladimir moved Yaroslav, who was the third eldest surviving son insofar as can be determined from the chronicler's record-keeping of Vladimir's huge "harem,"<sup>68</sup> from Rostov to Novgorod. He assigned Boris to the vacated Rostov; after that he advanced or appointed for the first time the remaining younger sons to towns of lesser importance. It is reasonable to assume that the sons were given towns the importance of which was commensurate with the sons' genealogical ranks.

Vladimir was the first prince to implement a type of territorial advancement which reflected what a number of historians have dubbed the "ladder" system. As we have seen they postulated that the death of a prince affected all younger princes who held less important towns and each prince advanced one rung up the political ladder.<sup>69</sup> Vladimir's promotion of his sons did not fully correspond with this definition. He chose not to

<sup>68</sup> Millard suggests that the list of Vladimir's sons was altered during Yaroslav's reign to provide legitimacy for his claim to succession ("Sons of Vladimir," 291–92, 295).

<sup>69</sup> See nn. 3 and 4 above.

relocate Izyaslav of Polotsk and Svyatopolk of Turov even though they outranked Yaroslav.

Why did Vladimir bypass the two eldest sons in his redistribution of domains? Although the PC does not report the date of Vysheslav's death, circumstantial evidence suggests that he died during the first half of the 1010s. Given that Yaroslav is not referred to as prince of Novgorod until the year 1014, it is reasonable to assume that Vysheslav died not long before that date.<sup>70</sup> We do know that Izyaslav died in 1001,<sup>71</sup> fourteen years before Vladimir. It is highly probable that Izyaslav predeceased his elder brother as well and this explains why he did not succeed Vysheslav to Novgorod. But Izyaslav's early death raises another question. Why did Vladimir not promote all of Izyaslav's younger brothers to his domain according to the "ladder" system? The notable difference between the deaths of Vysheslav and Izyaslav was that the latter had heirs and the former, evidently, did not.<sup>72</sup> Since Izyaslav had received Polotsk as his patrimony, it remained the inheritance of Izyaslav's sons after his death and Vladimir had no need to implement the "ladder" system of advancement.

Let us now turn to the problem of Svyatopolk: why was he, the eldest surviving son after Vysheslav's death, not promoted to Novgorod? One possible explanation is that Vladimir bypassed him because he was not Vladimir's true son. He was born to Yaropolk's Greek wife, whom Vladimir, according to pagan custom, took to himself after she was already with child. For this reason, the chronicler explains, Vladimir did not love him.<sup>73</sup> This claim, however, may merely be an attempt by a later Christian author to rehabilitate Vladimir. The chronicler's argument is contradicted by the information that at the time of the original distribution of domains Vladimir treated Svyatopolk without prejudice: Vladimir gave him Turov in keeping with his genealogical seniority. This information confirms that even though Svyatopolk was not Vladimir's son he adopted Svyatopolk and gave him all the rights of a son born in wedlock. Just the same, a rupture did occur between the two before Vladimir's death.

<sup>70</sup> Ipat., col. 114; Lav., col. 130; NPL, 168. Only Tatishchev, whose information must be used with care, reports Vysheslav's death; he places it under the year 1010 (*Istoriya Rossiyskaya* 4:142).

<sup>71</sup> Ipat., col. 114; Lav., col. 129; cf. NPL, 168, s.a. 1002.

<sup>72</sup> See N. de Baumgarten, *Généalogies et mariages occidentaux des Rurikides russes du X<sup>e</sup> au XIII<sup>e</sup> siècle*, *Orientalia Christiana*, vol. 9, no. 35 (Rome, 1927), Table 1, nos. 2 and 3.

<sup>73</sup> Ipat., col. 66; Lav., col. 78; NPL, 127. As we have seen above, s.a. 1022, Mstislav appropriated the possessions, lands, and wife of his vanquished rival. After defeating Yaropolk, Vladimir evidently acted according to the same custom.

The PC fails to describe the nature of the conflict but the annalist Thietmar of Merseburg does tell us. He reports that around 1013 Svyatopolk married a daughter of Boleslaw "the Brave" (*Khrobry*) of Poland.<sup>74</sup> She came to Rus' with Bishop Reinbern of Colberg and persuaded Svyatopolk to adopt the Latin rite. Soon after the marriage, around the year 1014, Vladimir discovered that his son was conspiring against him with Boleslaw, so he imprisoned Svyatopolk along with his wife and the bishop.<sup>75</sup> If this account is true, and Thietmar's report is perhaps more reliable than that of the PC since he died in 1018 and was a contemporary, then Svyatopolk's conspiracy was most likely the cause of Vladimir's hostility towards him. It would have been sufficient reason for Vladimir to bypass his promotion to Novgorod especially if, as has been suggested, he was holding Svyatopolk prisoner.<sup>76</sup> Given the available information this is the most plausible explanation why Vladimir modified the so-called "ladder" system by appointing Yaroslav to Novgorod instead of Yaroslav's elder brother. Significantly, the rupture between Vladimir and Svyatopolk was so severe that before his death Vladimir attempted to block Svyatopolk's succession to Kiev as well.

Not long before his death Vladimir placed his *druzhina* under the command of his son Boris of Rostov and sent him to drive off the nomadic Pechenegs. Vladimir died on 15 July 1015 while Boris was in the field. The chronicler explains that Vladimir's retainers unsuccessfully attempted to hide his death from his eldest son Svyatopolk who was in Kiev. The townsmen accepted Svyatopolk as their prince, but even though he distributed gifts amongst them their hearts were not with him because their "brothers" were with Boris.<sup>77</sup> It is important to note that Vladimir entrusted his *druzhina* to a junior son rather than to the eldest one who was the designated successor. It is also not without significance that, aside from Boris

<sup>74</sup> For an examination of the date of Svyatopolk's marriage, see M. B. Sverdlov, "Izvestiya nemetskikh istochnikov o russko-pol'skikh otnosheniyakh kontsa X-nachala XII v.," in *Issledovaniya po istorii slavyanskikh i Balkanskikh narodov. Epokha srednevekov'ya (Kievskaya Rus' i ee slavyanskie sosedi)*, ed. V. D. Korolyuk et al. (Moscow, 1972), 150–51.

<sup>75</sup> Thietmar, *Chronicon* 7.72, ed. R. Holtzmann, *Die Chronik des Bischofs Thietmar von Merseburg und ihre Korveier Überarbeitung*, MGH Scriptores Rerum Germanicarum, nova series, 9 (Berlin, 1935), 487–89; see Cross, *Russian Primary Chronicle*, 252 n. 119. Concerning the identification of the year 1014, see Sverdlov, "Izvestiya nemetskikh istochnikov," 151. Concerning Thietmar's reports on Rus', see M. B. Sverdlov, "Izvestiya o Rusi v Khronike Titmara Merzeburgskogo," in *Drevneyshie gosudarstva na territorii SSSR: Materialy i issledovaniya 1975 g.* (Moscow, 1976), 102–12.

<sup>76</sup> Since Yaroslav is first reported ruling in Novgorod under the year 1014, it is very probable, as Cross suggested, that Yaroslav was sent to Novgorod only after Svyatopolk was thrown into prison by Vladimir (*Russian Primary Chronicle*, 251 n. 116).

<sup>77</sup> Ipat., cols. 115–18; Lav., cols. 130–32; NPL, 168–69.

who evidently had been specially summoned by Vladimir from distant Rostov, Svyatopolk was the only son in Kiev at the time of his father's death. There is little likelihood that he was present by chance on that critical occasion when the transfer of political power was imminent. Ironically, as we have seen, Svyatopolk was probably a prisoner in Kiev.<sup>78</sup> Despite this he retained the right of succession, to judge from the information that the Kievans accepted him, albeit grudgingly, as prince.

There is additional but tainted evidence to support Svyatopolk's right of succession. After Boris was informed of his father's death he was much aggrieved by the news because he had been his father's favourite son. When Vladimir's councillors prompted him to usurp Kiev, however, Boris refused to raise his hand against his elder brother because, he declared, "if my father dies then he [Svyatopolk] will take the place of my father."<sup>79</sup> It is difficult to take this statement at face value because it echoes the instruction Yaroslav "the Wise" allegedly gave to his sons before his death in 1054 when he designated Izyaslav to succeed him in Kiev.<sup>80</sup> We should note that Boris made a double statement, namely, that Svyatopolk would succeed Vladimir and that Svyatopolk would then also assume the role of the father for his younger brother. The latter statement reflects an ideology that became popular at a later date,<sup>81</sup> but the declaration that Svyatopolk would succeed Vladimir appears to be an accurate representation of contemporary custom. As we have seen, in 970 Svyatoslav appointed his eldest son Yaropolk to rule Kiev.

Svyatopolk's right was also confirmed by Vladimir when he attempted to orchestrate the succession of Boris. After Vladimir's death his councillors incited Boris to usurp Kiev in the following manner: "we have been placed into your charge by your good father, either to go with you or alone, and to drive out [Svyatopolk] from the town [Kiev] and lead you into it [as

<sup>78</sup> Thietmar writes that Svyatopolk was in prison until his father's death (*Chronicon* 7.73, ed. Holtzmann, 489). Since the PC reports that Svyatopolk was in Kiev when Vladimir died, Svyatopolk was evidently being held prisoner there and was freed after Vladimir's death. Cf. Solov'ev, who suggested that after releasing Svyatopolk from prison Vladimir posted him to Vyshgorod (*Istoriya Rossii* 1.1:207; see also Likhachev, *Povest' vremennykh let* 2:357–58). Svyatopolk had a close association with a number of boyars in Vyshgorod after Vladimir's death (Ipat., cols. 118–19; Lav., col. 132; NPL, 170), but there is insufficient evidence to prove that he ruled the town.

<sup>79</sup> Ipat., col. 118; Lav., col. 132; NPL, 170.

<sup>80</sup> Yaroslav purportedly told his sons, "listen to [i.e., obey] him [Izyaslav], just as you listened to [i.e., obeyed] me, for he will take my place among you" (Ipat., col. 150; Lav., col. 161; NPL, 182; see Dimnik, "The 'Testament,'" 374).

<sup>81</sup> See the account of the martyrdom of SS. Boris and Gleb contained in a source written towards the end or the beginning of the thirteenth century (*Uspenskiy sbornik XII–XIII vv.*, ed. S. I. Kotkov [Moscow, 1971], 46) which places similar words into Boris's mouth.

prince]; that is why your father has placed you into our charge."<sup>82</sup> Vladimir's stratagem was probably the following. Realizing that his end was approaching he entrusted his troops, the most powerful in the land, to his favourite. He used the pretext that he was sending Boris to fight the Pechenegs, but the primary task of Vladimir's retainers was to usurp power for Boris. The advice Vladimir's men gave Boris confirmed that he was not the rightful successor. They argued not from a position of right but of might: Boris had the military power to overthrow Svyatopolk and he should use it because that is why his father had given him the troops. Significantly, Vladimir's men did not challenge Svyatopolk's claim on legal grounds thereby confirming it.

The chronicler does not explain why Vladimir wished Boris to be his successor except that Boris was his favourite son. It has been suggested that Vladimir chose Boris because he was the elder of the two sons born to the Byzantine Princess Anna. Since he married her after his official conversion to Christianity around 988, Vladimir may have considered this to be his only valid marriage.<sup>83</sup> This contention is not confirmed by the PC, but, if true, it is one of the earliest instances of how the Christian faith influenced the succession practices of Rus'.<sup>84</sup> Whatever Vladimir's reason for preferring Boris as his successor, his wish was not realized. And yet, Vladimir could have taken a very decisive step to ensure that Svyatopolk would not challenge Boris's succession. It is interesting to note that Vladimir, who ordered the death of his brother Yaropolk, did not have Svyatopolk executed for his alleged act of treason. By eliminating Svyatopolk, Vladimir would have made usurpation simpler for Boris. Perhaps, in this instance as well, Vladimir was guided by his newly adopted Christian principles.

Vyshe-slav and Izyaslav had been ahead of Svyatopolk in the line of succession to Kiev, but, as we have seen, they predeceased Vladimir. Vyshe-slav had no sons but Izyaslav did,<sup>85</sup> and this had a significant consequence. To judge from circumstantial evidence, when Svyatopolk acceded to Kiev

<sup>82</sup> Ust (M), 25, and Ust. (A), 64; Ya. S. Lur'e reported this in his *Obshcherusskie letopisi*, 192. Cf. Ipat., col. 118; Lav., col. 132; NPL, 170.

<sup>83</sup> See Solov'ev, *Istoriya Rossii* 1.1:204. Cf. Thietmar, who wrongly states that Vladimir had three sons: one married the daughter of Prince Boleslaw but was in prison at the time of Vladimir's death and the other two inherited all of Vladimir's lands (*Chronicon* 7.72 and 73, ed. Holtzmann, 487 and 489). The latter two, according to Solov'ev, were Boris and Gleb (*Istoriya otnosheniy*, 58 n. 1).

<sup>84</sup> As has been shown elsewhere, Christian moral principles did influence the "testament" of Yaroslav "the Wise"; he was the first prince of Kiev who practiced monogamy so that all his sons were born of the same mother (Dimnik, "The 'Testament,'" 373-74).

<sup>85</sup> For the names of Izyaslav's sons, see Baumgarten, *Généalogies*, Table 1, no. 2.

the principle of debarment was implemented for the first time. This meant that as Izyaslav had predeceased Vladimir and failed to succeed him to Kiev, Izyaslav's sons lost their right of succession to Kiev. They became debarred; their right of succession to "the throne of their father" was now relegated solely to Polotsk since Izyaslav had in fact ruled that town. We are not told whether the principle of debarment was legislated by Vladimir or whether it was an age-old custom. The important point to note is that after this time debarment formed an integral part of the succession process.

After Svyatopolk occupied Kiev the chronicler states that he attempted to appropriate his brothers' patrimonies, but his machinations against Boris, Gleb, and Svyatoslav led to his downfall. With the help of the Novgorodians Yaroslav defeated him and in 1016 "sat in Kiev, on the throne of his father."<sup>86</sup> As has been correctly pointed out, up to the time of Vladimir's death there was no provision in the succession and inheritance practices to guarantee that Rus' would remain politically centralized after the death of the sole ruler in Kiev. Indeed, there were only two realistic alternatives: a centralized and unified state secured through a fratricidal war which left one brother victorious, or the fragmentation of the state into numerous independent principalities ruled by all the surviving brothers.<sup>87</sup> Svyatopolk, whose resources were greater than those of any of his brothers, opted for the first course of action.

The chronicler does not tell us if Svyatopolk had jurisdiction over any other domain in addition to Kiev, but circumstantial evidence suggests that he did. As has been noted, Vladimir gave Vysheslav, his eldest son, the patrimony of Novgorod. We may assume that after occupying Kiev Vysheslav would have retained control of Novgorod just as Yaroslav did, as we shall see, after defeating Svyatopolk. Owing to Vysheslav's premature death Svyatopolk, prince of Turov, inherited Kiev. Since his position as successor to Vladimir was comparable to that of Vysheslav, we may conclude that in addition to Kiev he retained control of his patrimony. Authority over two domains made Svyatopolk more powerful than any other single prince in Rus'.

In the light of Svyatopolk's military might and his declaration to assert his rule over all his brothers, Yaroslav may have had a genuine concern for his own safety. However, his actions show that he himself had a similar ambition. According to the system of succession as it then existed, he had no claim to Kiev because it had become the hereditary domain of his elder

<sup>86</sup> Ipat., col. 129; NPL, 175; cf. Lav., col. 142, "on the throne of his father and grandfather."

<sup>87</sup> Presnyakov, *Knyazhoe pravo*, 32–33.

brother Svyatopolk. Yaroslav's only recourse was to usurp the capital and Svyatopolk provided him with an excuse: Yaroslav successfully drove out Svyatopolk from Kiev, as their father Vladimir had defeated Yaropolk, under the pretext of avenging his brothers' deaths.

In 1024, while Yaroslav was in Novgorod, his younger brother Mstislav of Tmutarakan' came to Kiev. After its citizens refused to accept him as their prince he crossed the Dnepr and went to Chernigov where he established his rule. Later in the year Yaroslav and his Varangian allies attempted to expel him but were defeated at a site known as Listven, west of Chernigov. Then Mstislav sent a missive to Yaroslav in Novgorod stating, "you rule in your Kiev since you are the elder brother and I shall rule this side [of the Dnepr]."<sup>88</sup> Two years later the brothers concluded peace "and they divided the Rus'sian land along the Dnepr. Yaroslav got this side [the west] and Mstislav the other [the east]."<sup>89</sup>

Mstislav's actions are informative. It appears that he came to Kiev in peace and asked the citizens to make him their prince. When they refused he did not attempt to take the town by force but withdrew to Chernigov, the most important town on the left bank of the Dnepr. This being the case, we may well ask why he challenged Yaroslav's control of Kiev in the first place. Mstislav's action becomes even more puzzling if we consider the statement he made to his brother at a later date when he acknowledged Yaroslav's right to Kiev according to the principle of seniority.

We must remember that during the course of Svyatopolk's and Yaroslav's rivalry for control of Kiev at least four of the brothers were killed. Indeed, in addition to Yaroslav and Mstislav the only brother who remained alive was Sudislav of Pskov.<sup>90</sup> The only other patrimony which remained intact was Polotsk; it was governed by Izyaslav's descendants. It appears that in consolidating his authority Yaroslav laid claim to the domains of all his deceased brothers, like his uncle Yaropolk had done when he seized Oleg's domain after killing him.

As one of the three surviving brothers Mstislav believed he also should have a share of the spoils.<sup>91</sup> In this, as we have seen, he had the example of his father Vladimir who had demanded that Yaropolk divide Oleg's domain with him. Yaroslav returned to Novgorod after driving out Svyatopolk from Kiev. Believing that Yaroslav intended to remain in his northern

<sup>88</sup> Ipat., cols. 134–36; Lav., cols. 147–49.

<sup>89</sup> Ipat., col. 137; Lav., col. 149.

<sup>90</sup> The PC does not record the fates of Vsevolod, Stanislav, and Pozvzd. Presnyakov suggested that Vsevolod died around 995 in Scandinavia (*Knyazhoe pravo*, 31).

<sup>91</sup> See Solov'ev, *Istoriya Rossii* 1.1:213.

patrimony, Mstislav proposed to the Kievans that they make him their prince. They rejected him, but the inhabitants of Chernigov seized the opportunity to have their own ruler and free themselves from the overlordship of Kiev. Significantly, even after his victory over Yaroslav at Listven, Mstislav did not try to take Kiev by force. He therewith demonstrated that his intention was not to challenge Yaroslav for supremacy in the land. Rather, he demanded an equal share of the lands of Rus', namely, a share of the territories Yaroslav had appropriated from their deceased brothers.

After 1024, therefore, the issue was not succession to Kiev but the inheritance of domains! In Mstislav's opinion Yaroslav, even though he was the eldest brother, did not have the right to appropriate the patrimonies of all the deceased princes. To judge from the declaration Vladimir had made to Yaropolk at an earlier date, it was customary for such lands to become the common property of all the surviving princes. They had to be partitioned between all the brothers or, at any rate, between the ones who were militarily strong enough to assert their claims. Yaroslav acceded to Mstislav's demand and agreed to an equitable division; their compromise resulted in a partition of domains which had no precedent in Rurik's family. They created two domains with the river Dnepr serving as the common boundary. In this way Yaroslav and Mstislav not only shared the territories of their deceased brothers but also split up the lands of Kiev which were located on both sides of the river Dnepr. Sudislav of Pskov was too weak to assert his claim, so his "right" to additional lands was ignored.

Following the partition of Rus' the question of succession to Kiev after Yaroslav's death was not a subject of debate. The arrangement that existed between Yaroslav and Mstislav suggests that neither of Yaroslav's brothers (Mstislav or Sudislav), should one survive him, had the right to inherit Kiev according to any form of "ladder" system of succession. Rather, it is reasonable to assume that Mstislav and Yaroslav, like their father Vladimir, followed the "structure" of their predecessors, namely, the domains of the two princes became their patrimonies. Mstislav would bequeath his domain to his son and Yaroslav would leave his territories, including Kiev, to his heirs.

After the two brothers agreed upon the division they lived in peace. Despite the autonomous nature of his domain there is evidence to suggest that the younger brother deferred to the elder one. Mstislav attached political significance to Yaroslav's genealogical seniority and the family relationship dictated the political one. This probably happened in 1031 when the princes joined forces against the Poles and regained control of a

number of towns for Yaroslav.<sup>92</sup> Since the campaign was of importance only for the latter, he probably used his senior status to persuade Mstislav to help him.

There is little additional information concerning the short period of the duumvirate. One event, which is recorded, was of the utmost significance for the future history of Rus' and for the inheritance of domains. Under the year 1033 the chronicler reports that Evstafiy, Mstislav's only son, died.<sup>93</sup> This meant that Mstislav had no heirs to whom he could bequeath his portion of Rus'. Consequently, after he died in the year 1034 "Yaroslav assumed control of his [Mstislav's] domain and became absolute ruler in the land of Rus'."<sup>94</sup> The partition of 1026 was nullified owing to Evstafiy's premature death and the lands of Rus', once again, were united under the rule of one prince.

The chronicler reports that in the year of Mstislav's death, owing to slanderous reports, Yaroslav incarcerated his brother Sudislav in Pskov.<sup>95</sup> He was motivated by his desire to assert his rule over all the lands of Rus'. Whereas Mstislav had forced him to divide up the lands of Rus' between them, Yaroslav did not wish to repeat that arrangement with Sudislav. He took the precaution of incapacitating his one surviving brother. According to Vladimir's bequest Pskov remained Sudislav's patrimony, but in fact, it now fell into Yaroslav's administrative network.

Thus, between 972 and 1035 succession and inheritance had gone around full circle through two princely families which had more than one heir. Svyatoslav's three sons fought for succession and Vladimir emerged as the sole ruler. After his death his numerous sons engaged in a fratricidal war from which Yaroslav emerged the victor. There were, however, notable differences between the two reigns. When Vladimir achieved absolute power he was the only surviving brother, and he ruled all the important towns of Rus' including Polotsk. Yaroslav neither controlled the latter (it was in the hands of his brother's descendants) nor was he the only survivor of his family (his younger brother Sudislav was still alive). In these respects Yaroslav's control of the lands of Rus' was not as great as that of his father.

<sup>92</sup> Ipat., col. 137; Lav., col. 150.

<sup>93</sup> Ipat., col. 138; Lav., col. 150.

<sup>94</sup> Ipat., col. 138, s.a. 1034; cf. s.a. 1036, Lav., col. 150. Yaroslav incarcerated Sudislav after Mstislav's death; since the imprisonment apparently occurred in the year 1035, the date of Mstislav's death was probably 1034 (see Dimnik, "The 'Testament,'" 371).

<sup>95</sup> Ipat., col. 139, s.a. 1034; Lav., col. 151, s.a. 1036. According to both accounts, when Sudislav was released in 1059 he had been in prison for twenty four years; accordingly, he was incarcerated in the year 1035.

Both princes had one important achievement in common: they secured the right of succession and inheritance for their descendants while debarring the heirs of their brothers. This manner of weeding out Ryurik's dynasty did not facilitate the continuation of a centralized state but it did guarantee a form of unity in that the political ties of the ruling princes were based on the family association of brothers born of the same father. Consequently, by 1035 Yaroslav was in a position to distribute all the territories of Rus', except Polotsk and Pskov, to his sons. The question of how closely he adhered to the "structure" of his predecessors or what innovations he introduced to the practices of succession and inheritance has been examined elsewhere.<sup>96</sup>

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In conclusion we can make the following observations about the chroniclers' views of the nature of princely succession and inheritance before 1054. The princes observed more or less faithfully a number of generally acknowledged customs. For example, only a prince had the right to rule in his own name. A princess could not rule, although a woman of boyar rank, like Ol'ga, could act as a regent. A prince was debarred from occupying a town if his father had not ruled it before him. Also, the domain of a deceased brother who had no heirs was to be divided among the surviving brothers.

During the reigns of Ryurik, Oleg, and Igor' succession to supreme rule and to the capital town, whether Novgorod or Kiev, was straightforward in that there was only one eligible candidate in each instance. To judge from the examples of Ryurik and Oleg and then Oleg and Igor', the princes were following a form of lateral succession. Later, during Igor's reign, succession to supreme rule and to the capital town became the undisputed prerogative of the incumbent's eldest surviving son. Succession to Kiev was determined by genealogical seniority. This practice was dramatically demonstrated under Vladimir. After his two eldest sons, Vysheslav and Izyaslav, died before him, the right of succession to Kiev devolved down to the third and eldest surviving son, Svyatopolk. Vladimir's attempt to secure the succession of his favourite son Boris demonstrated, on the one hand, that the prince of Kiev did not have the right arbitrarily to appoint any son as his successor. On the other hand, the information that the Kievans accepted Svyatopolk as their prince demonstrated that the eldest surviving

<sup>96</sup> Dimnik, "The 'Testament,'" 369-86.

son, even though in disfavour, enjoyed the right of succession. Thereafter the descendants of the two eldest sons, Vysheslav and Izyaslav, were debarred from ruling Kiev.

The sources fail to disclose what order of succession was to be followed after the death of the eldest brother in Kiev. We can only conclude that if, as appears to have been the case, the princes were abiding by the "structure" of their predecessors, then Yaropolk and Svyatopolk, like Vladimir, would have been succeeded by their eldest surviving sons. Since the situation never arose the question is a moot point. Instead, the succession of Yaropolk and Svyatopolk was the signal for acrimonious power struggles between the surviving brothers; this method of determining succession appears to have been a time-honoured Varangian practice. During the fratricidal wars rival claimants were either killed or effectively removed from the political arena until one brother successfully proclaimed himself absolute ruler.

The question closely associated with succession to Kiev was the inheritance of domains. During the reigns of Ryurik, Oleg, and Igor' this practice presented no special difficulty since in each instance there was one successor who inherited the entire realm. Svyatoslav changed that practice because he was the first prince with more than one son: he allotted a permanent domain to each one. Vladimir followed his example by giving patrimonies to all his heirs, whether they were born in wedlock or of concubines. Owing to internecine strife the domains of the individual Svyatoslavichi and Vladimirovichi did not survive. After a prince was eliminated his land was appropriated by the strongest rival who, ultimately, consolidated his authority in Kiev and became the sole ruler in Rus'.

On one occasion Vladimir followed a practice which may be construed as being the precursor of the "ladder" system of inheritance later adapted by his son Yaroslav. After the death of his eldest son Vysheslav in Novgorod, Vladimir promoted a number of his sons, but not the eldest eligible one, in an order coinciding with their genealogical seniority. The procedure was made necessary because Vysheslav died heirless leaving Novgorod without a ruling family. Vladimir gave Vysheslav's domain to the younger Yaroslav as his patrimony; then he gave Yaroslav's former town to the next younger brother and so on. The practice of advancing sons from less important to more important towns found its first expression under Vladimir.

Finally, because Svyatoslav planned to make Pereyaslavets in Bulgaria rather than Kiev the capital of his realm, he divided the lands of Rus', including Kiev, between his three sons. He did this at the height of his

career when he was still pursuing his military conquests and the boundaries of his realm were not yet stabilized. Svyatoslav's allocation of Kiev as if it were an "ordinary" domain does not reflect accurately the practice of bequeathing the capital of Rus'. At a later date, as Vladimir's sons came of age he allocated patrimonies to them, but he himself retained control of Kiev and its lands. After Vladimir's death, when the capital passed into the hands of his eldest surviving son, Svyatopolk, the latter also retained control of his patrimonial domain, Turov. This made him the single most powerful prince in all of Rus'.

We have seen, therefore, that the practices of succession and inheritance were adapted from one generation to the next in accordance with changing political vicissitudes. The so-called "ladder" system which Yaroslav "the Wise" implemented would be a further refinement of the practices his predecessors had already adapted to the circumstances of their day.

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## THE WILL OF MASTER JOHN DE BELVOIR, OFFICIAL OF LINCOLN (†1391)

*Michael J. Haren*

MASTER John de Belvoir was official of the diocese of Lincoln from 1369 to 1391 and at the time of his death a canon of Lincoln cathedral. His will, printed below, is registered in the contemporary act book of the dean and chapter of Lincoln.<sup>1</sup> Apart from the considerable body of local and other particular detail that it affords, its interest is on three main levels. At perhaps the most general level of interest it witnesses to an engaging strand of religious sensitivity that, in near-contemporary context, has evoked discussion among historians. Next in level of broad significance—and on a related level of interest—is that it affords an insight specifically into the religious outlook of an ecclesiastical lawyer-administrator. Third, it provides revealing evidence on the nature of the connections between the leading administrators of the diocese of Lincoln in the second half of the fourteenth century.

Wills at their most expressive open a direct route to an area that is, for the most part, peculiarly insusceptible of historical investigation,<sup>2</sup> except in those relatively rare cases—such as the remarkable *Livre de Seyntz Medicines* of Henry of Lancaster or, later, the practices of Cicely, duchess of York—where meditations or private devotions have been committed to

<sup>1</sup> Lincolnshire Archives Office, Muniments of the Dean and Chapter of Lincoln [subsequently cited as D&C] A/2/28, fols. 41r–43r. The text of the will is published below by kind permission of the Dean and Chapter of Lincoln. I acknowledge with pleasure the good offices, from which I have benefited over several years of work on Lincoln archival material, of Dr. Nicholas Bennett, Vice-Chancellor and Cathedral Librarian, as also, for his kindly checking a bibliographical query, of Dr. Paul Brand. I am most grateful to the managing editor of *Mediaeval Studies* and to the reader on behalf of the journal for their attentive corrections of detail and improvements of formulation and presentation which have been incorporated in the final version of this article.

<sup>2</sup> Cf. the remarks of M. G. A. Vale on Yorkshire wills—“It is here that personal predilections and devotional habits sometimes emerge” (*Piety, Charity and Literacy among the Yorkshire Gentry, 1370–1480*, Borthwick Papers 50 [York, 1976], 11)—and those of J. Catto on the development of a “penitential rhetoric which could make the will a personal cri-de-coeur as much as a legal instrument” (“Religion and the English Nobility in the Later Fourteenth century,” in *History and Imagination: Essays in Honour of H. R. Trevor-Roper*, ed. H. Lloyd-Jones, V. Pearl, and B. Worden [London, 1981], 51).

more special record.<sup>3</sup> Examination of the surviving wills of the chroniclers' Lollard knights, Latimer (1401), Clifford (1404) and Cheyne (1413), led K. B. McFarlane to observe, "We begin to feel that we are not far from an understanding of these laymen's religion."<sup>4</sup> His conclusion had particular, if debated, import. His characterization of the knights' wills reinforced an interpretation of the other evidence for their outlook. The same conclusion, a feeling that we are not far from this lawyer's religion, has particular import here too.

Late medieval lawyers, even ecclesiastical lawyers, have not been notably obliging about communicating their pious reflections: "a class of men not usually given to writing religious poetry," commented Dr. Pantin on the attribution of the *Speculum vitae* to the York advocate William of Nassington,<sup>5</sup> and much the same could be said of the whole range of religious expression. What evidence does survive, whether literary or documentary, of the inner workings of their minds is of value in proportion to its rarity as well as to the importance of their profession in contemporary governmental structures. In the case of John de Belvoir, a peculiar interest attaches to his cast of mind insofar as it may be reconstructed. He was head of the administration of the diocese of Lincoln during the first phase of the birth and development of the Lollard movement. Moreover, by provenance, early professional career, and—as appears from the will—enduring attachment he was intimately familiar with that part of the diocese, Leicestershire, where Lollardy struck root with a fertile suddenness as yet most imperfectly understood.<sup>6</sup> Possessed as he may plausibly be judged to have been of the twin keys of power and knowledge in a sensi-

<sup>3</sup> E. J. Arnould, ed., *Le Livre de Seyntz Medicines: The Unpublished Devotional Treatise of Henry of Lancaster*, Anglo-Norman Text Society 2 (Oxford, 1940); *A Collection of Ordinances and Regulations for the Government of the Royal Household*, The Society of Antiquaries (London, 1790), 37. For discussion of these examples in the course of a wide-ranging review of religious literature, see W. A. Pantin, *The English Church in the Fourteenth Century* (Cambridge, 1955), 231–33, 254. With the recorded practices of Cicely, duchess of York, may be compared those enjoined on an early fifteenth-century layman, perhaps a member of the Throckmorton or Olney families; see W. A. Pantin, "Instructions for a Devout and Literate Layman," in *Medieval Learning and Literature: Essays Presented to Richard William Hunt*, ed. J. I. G. Alexander and M. T. Gibson (Oxford, 1976), 398–422.

<sup>4</sup> K. B. McFarlane, *LANCASTRIAN KINGS AND LOLLARD KNIGHTS* (Oxford, 1972), 211–12.

<sup>5</sup> Pantin, *English Church*, 228.

<sup>6</sup> For analysis of the dynamics of the movement, see R. G. Davies, "Lollardy and Locality," *Transactions of the Royal Historical Society*, 6th ser., 1 (1991): 191–212. For Leicestershire in particular focus, see J. Crompton, "Leicestershire Lollards," *Transactions of the Leicestershire Archaeological and Historical Society* 44 (1968–69): 11–44, and in the wider context, A. Hudson, *The Premature Reformation: Wycliffite Texts and Lollard History* (Oxford, 1988), 73–78.

tive context, he is on this count a figure with considerable claim to historical notice.

On a more specific, though again related, level of interest is the evidence that John de Belvoir's will provides for the connections between the personnel of the administration of the diocese of Lincoln in the second half of the fourteenth century. These connections, in their mere detail and as a matter of fact, are otherwise readily established. It is their quality that remains to be recaptured. The opportunity to do so is also rare in the study of an administrator's career. In the case of administrators more than in that of any other influential sector of fourteenth-century society, the historian is typically denied access not only to religion in the sense of personal piety but to all personal dimensions beyond the barest details of training and subsequent service.<sup>7</sup> The inferences as to a subject's *Weltanschauung* that may be drawn, under the one head, from his having studied in the law schools of Oxford or, under the other, from his activity over a span of decades as the recipient and executor of official mandates are limited and hazardous. At first sight, the often copious evidence of administrative activity is promising, but its promise hides an intrinsic difficulty. While a highly placed administrator may reasonably be supposed often to have made a substantial contribution to the formulation of the orders entrusted to him or to his colleagues, the historian must be content in the main to take agents and principals as an undifferentiated lump, resistant to all attempts at quantifying their respective rôles in determining the policy that the documents preserve. Beyond that too there remains, for all but the most idiosyncratic measures, a difficulty in distinguishing how far policy is spontaneous or deliberate and how far ad hoc, a forced reaction to events. The defect of administrative records as a source for the study of medieval governmental thought, as distinguished from the mechanical functioning of government, lies in the paradox that if it is the most sophisticated administration that produces and preserves records in abundance, it is also the case that the more sophisticated the administration the more impersonal are its processes. From the historian's viewpoint, its staff tend to be archetypes of the faceless bureaucrat, who might be said within the continuity of Western civilization to be, though only by a trick of the sources, a medieval invention.<sup>8</sup> Yet, if the official mask can be

<sup>7</sup> Cf. D. M. Owen, ed., *John Lydford's Book*, Historical Manuscripts Commission JP 22 (London, 1974), 16: "apart from the biographical data . . . we know very little about these men and their preoccupations."

<sup>8</sup> The preceding remarks are not to imply that relevance for policy is the only historical interest of the personality and personal connections of medieval administrators: rather that policy as documented is a difficult source for discerning personality and outlook or the influence of connections in moulding them.

removed, if the administrator can be given a personality and seen in the round, larger consequences may follow. John de Belvoir's will allows one administrator to be seen, not indeed perfectly in the round but at least in a more rounded fashion than is normally possible. Among the connections documented in it is one that must be thought to constitute a major formative influence upon him.

An outline of the testator's career will serve to introduce the will in general and to set in context its local and personal particulars.<sup>9</sup> Evidently, from his main dispositions more securely than from his toponymic, he was a native of Belvoir, on the borders of Lincolnshire and Leicestershire. By 1348 he has the style "master." There is no reason for supposing that his university studies were pursued elsewhere than at Oxford. In October of that year he is described as an advocate of the Lincoln consistory and bishop's sequestrator in the archdeaconries of Oxford, Buckingham, and Bedford.<sup>10</sup> In July 1350 he was commissioned with Masters William de Spaldwick and John de Kelleseye to take cognizance of all causes in the bishop's audience.<sup>11</sup> For how long he continued in this capacity is unclear. He appears on various occasions in the succeeding years as the recipient of episcopal mandates: on 29 September 1351, addressed as bishop's clerk, he was commissioned to investigate and correct delicts in the archdeaconries of Lincoln and Stowe; on 29 June 1352, referred to as "iurisperitus," he was commissioned with the prior of St. Leonard's, Stamford, and with Master William de Spaldwick in a divorce case; on 24 September of the same year, addressed as bishop's sequestrator, he was commissioned in a testamentary case at Leicester.<sup>12</sup> On 12 October 1352 he is recorded as present with four other witnesses—Master William Doune, official of Lincoln, William de Spaldwick, John de Denot, and Richard de Asschule, clerk of Exeter diocese and notary public—at Bishop Gynwell's visitation of Lincoln cathedral.<sup>13</sup> Acting before 16 October 1352, he is recorded as having, in visitation, deposed the prior of Elsham, O.S.A., Lincs. for dilapidation.<sup>14</sup> On 14 October of the same year he was commissioned with Master William Doune, official, and with William de Spaldwick, to visit the

<sup>9</sup> For a biographical note, see A. B. Emden, *A Biographical Register of the University of Oxford*, 3 vols. (Oxford, 1957–59), 1:164.

<sup>10</sup> Lincolnshire Archives Office [hereafter cited as LAO], Bishops' Registers 9, fol. 23r (roman numeration).

<sup>11</sup> Ibid., fol. 45r (roman numeration).

<sup>12</sup> LAO, Bishops' Registers 8, fols. 4v, 6v, 8r.

<sup>13</sup> Ibid., fol. 167v.

<sup>14</sup> Ibid., fol. 22r.

archdeaconry of Lincoln.<sup>15</sup> On this occasion, he is referred to as rector of Faldingworth, Lincs., to which church he had been admitted on 27 September 1352.<sup>16</sup> He exchanged this for Braytoft, Lincs., in September 1353 as part of a series of transactions by which he exchanged again, probably on the same day, for the rectory of Kirkby Mallory, Leics.<sup>17</sup> This last benefice he held until approximately December 1361.<sup>18</sup> His attachment to it or sense of responsibility for it appears from the will.

Following these exchanges, there is a break of almost two years before John de Belvoir again appears in the episcopal register.<sup>19</sup> It may be that during this time he was continuing law studies at Oxford. It seems, though, that he never proceeded to a degree in either law, and at all events his study of civil law must be thought to have ceased by the early summer of 1354, since on 7 June of that year he appears as a recipient of priest's orders.<sup>20</sup> (Honorius III's decretal *Super specula* forbade study of civil law to priests.<sup>21</sup>) He is still referred to simply as "iurisperitus" in a mandate of 6 April 1356.<sup>22</sup>

The conjectured ending of John de Belvoir's civil law studies at Oxford coincides neatly with the appointment as archdeacon of Leicester of William Doune, who had been serving Gynwell as official since about 1352. At some unknown juncture John de Belvoir became Doune's official in the archdeaconry.<sup>23</sup> Whether he was diverted from further study by a prospect which had now opened up or whether he had had to abandon study for other reasons—such as failure, perhaps, to avoid the prohibition of *Super specula* by securing the necessary dispensation from the obligation of promotion to priesthood in respect of his parish cure—is doubly con-

<sup>15</sup> Ibid., fol. 24r.

<sup>16</sup> LAO, Bishops' Registers 9, fol. 116r (roman numeration).

<sup>17</sup> Ibid., fols. 117v, 58r, 60r (all roman numeration). The precise date of day on which the exchanges took place is left blank.

<sup>18</sup> Ibid., fol. 377v (arabic numeration). The date of the institution arising from the vacancy is 18 December 1361.

<sup>19</sup> He reappears on 8 August 1355, addressed as bishop's sequestrator (LAO, Bishops' Registers 8, fol. 70v).

<sup>20</sup> See Emden, *Biographical Register* 1:164, citing LAO, Bishops' Registers 9 [D], fol. 72r.

<sup>21</sup> X 3.50.10.

<sup>22</sup> LAO, Bishops' Registers 8, fol. 59r-v.

<sup>23</sup> He is referred to as such in Doune's will (see A. H. Thompson, "The Will of Master William Doune, Archdeacon of Leicester," *The Archaeological Journal* 72 [1915]: 233-84), made probably in the autumn of 1360, which is the only evidence on the point (since references in the episcopal register to the routine activity of the official of the archdeacon as regards inductions, for example, are impersonal); for Doune's reference to John de Belvoir, see *ibid.*, 283. The most probable occasion of the making of the will was Doune's setting off for the papal curia, which seems to have been imminent when Gynwell made arrangements for the duties of the officiality of Lincoln in his absence, on 22 September 1360 (LAO, Bishops' Registers 8, fol. 146v).

jectural. Doune was appointed to the archdeaconry by Gynwell on 12 May 1354 and, though his title was disputed by a rival, claiming in respect of papal reservation, he was probably in effective possession from that point onward.<sup>24</sup> The absence of documentation for the conduct of the affairs of the archdeaconry of Leicester at this time means that Doune's will and de Belvoir's own is the only direct evidence on which to assess the relationship between them. As will be seen, it would appear to have been close and Doune's influence upon his junior to have been deep and lasting.

John de Belvoir's appearances by name in the episcopal register in the years 1356–60 are few.<sup>25</sup> However, since William Doune was at the same time official of Lincoln and archdeacon of Leicester, his official in the archdeaconry is likely to have been well informed on the affairs of the diocese as a whole even when not personally engaged in them. John de Belvoir's appointment with William de Spaldwick on 22 September 1360 to exercise the functions of the officiality of Lincoln in Doune's absence probably represented a natural continuity.<sup>26</sup> It is not clear what his position was in the aftermath of Doune's death, which occurred, no doubt as a result of plague, at Barbentane, a hill town to the south of Avignon, by June 1361.<sup>27</sup> He was inducted to the rectory of Charlton on Otmoor, Oxon., on 4 October 1361, resigning that of Kirkby Mallory in consequence by the following December.<sup>28</sup> On 25 January 1362, in the last

<sup>24</sup> See LAO, Bishops' Registers 9, fol. 319v (roman numeration), for Doune's appointment, and cf. Thompson, "Will of Master William Doune," 240, for details of the dispute. Hamilton Thompson is not quite correct in stating that the dispute was resolved in Doune's favour by 10 December 1355; in fact, the provision to him on that date was to hold good if his rival had ceded (*Calendar of Entries in the Papal Registers Relating to Great Britain and Ireland: Papal Letters*, ed. W. H. Bliss, C. Johnson, J. A. Twemlow, M. J. Haren, and A. P. Fuller, 18 vols. [London and Dublin, 1893–1994], 3:517, 566). There is, however, no reason for thinking other than that Doune was effectively in possession and would accordingly have needed an official, although it does not follow that John de Belvoir was his official from the beginning.

<sup>25</sup> On 13 February 1356 he and Master John de Carleton were commissioned to absolve from sentence of excommunication (LAO, Bishops' Registers 8, fols. 75r–76r). On 24 March 1356, with William de Cloune, abbot of St. Mary of the Meadows, Leicester, the archdeacon of Richmond, William Doune (styled as archdeacon of Leicester), William Loughborough, LL.D., and John de Kelleseye, rector of Uppingham, he witnessed the installation of Richard de Hanslope of Tanworth as dean of the New College of St. Mary, Leicester (LAO, Bishops' Registers 9, fol. 364r–v [roman numeration]). On 6 April 1356 he was commissioned with William Doune, William de Spaldwick, and John de Longedone to hear a case in St. Michael's the Great, Stamford (LAO, Bishops' Registers 8, fol. 59r–v). On 29 March 1358 he was commissioned to conduct episcopal visitation in the archdeaconry of Northampton (*ibid.*, fol. 86v).

<sup>26</sup> LAO, Bishops' Registers 8, fol. 146v.

<sup>27</sup> *Calendar of Entries in the Papal Registers Relating to Great Britain and Ireland: Petitions to the Pope*, ed. W. H. Bliss, vol. 1 (London, 1896), 370, 381.

<sup>28</sup> LAO, Bishops' Registers 9, fols. 229v (roman numeration), 377v (arabic numeration). The date 7 October 1361 in Emden, *Biographical Register* 1:164, should read 4 October.

months of Gynwell's pontificate, he was admitted to a canonry of Lincoln and to the prebend of St. Botolph.<sup>29</sup> This prebend he held until he became subdean of Lincoln in 1378, and he resumed it in 1389 on his resigning the subdeanery.<sup>30</sup> During the early part of this period, from 1361 until his appointment as diocesan official in 1369, he may perhaps have been retained in his previous function as official of the archdeaconry of Leicester but there is no evidence on the point. The only reason for the surmise is the fact that he seems to have been relatively inactive in the administration of the diocese at large. He may rather have returned to Oxford to study canon law.<sup>31</sup> In any case, Bishop Buckingham's register of memoranda has only two notices of him in some eight years: on 1 December 1363, addressed as canon of Lincoln, he was commissioned with others to proceed against violators of ecclesiastical liberty,<sup>32</sup> and on 5 March 1366 he was commissioned to preside over what appears overtly—otherwise than from its being recorded in the register of memoranda—to have been a routine induction.<sup>33</sup> Apart from the record of his tenure of benefice,<sup>34</sup> not until 1369 does he reemerge from the documentary obscurity. On 14 May 1369 he was present when Richard de Belvoir, monk of St. Albans, was confirmed in title to the priory of Belvoir.<sup>35</sup> In August he had two commissions for inductions, recorded in the register of memoranda.<sup>36</sup> Then, on 29 September 1369, Buckingham constituted him his official.<sup>37</sup> He continued actively in this capacity at least until the autumn of 1389. On 22 October of that year, Master John Kele, LL.B., was appointed to exer-

<sup>29</sup> Emden, *Biographical Register* 1:164, and cf. J. Le Neve, *Fasti Ecclesiae Anglicanae 1300–1541*, vol. 1: *Lincoln Diocese*, ed. H. P. F. King (London, 1962), 38. For his keeping the great residence in the period 1363–68 and again, when the records resume, from 1378 to 1391, see K. Edwards, *The English Secular Cathedrals in the Middle Ages*, 2d ed. (Manchester, 1967), 341–46.

<sup>30</sup> The details of tenure, mistaken in Emden, *Biographical Register* 1:164, can be reconstructed from the records for canonical residence in Edwards, *English Secular Cathedrals*, 341–46. Cf. the tenure as established from the episcopal register in Le Neve, *Fasti: Lincoln*, ed. King, 5, 38.

<sup>31</sup> On 25 October 1363 he had licence to demit the fruits of Charlton on Otmoor to farm for two years (LAO, Bishops' Registers 12, fol. 15r). I have not, however, found any licence in his favour under *Cum ex eo*: in the case of both Gynwell and Buckingham these and other licences for absence are recorded among the general business of the register.

<sup>32</sup> LAO, Bishops' Registers 12, fols. 14v–15r.

<sup>33</sup> *Ibid.*, fols. 27v–28r.

<sup>34</sup> On 9 May 1368 he was presented to the parish church of Lutterworth, Leics., in exchange for that of Charlton on Otmoor (*ibid.*, fol. 59r). It is unclear how long he held Lutterworth but it is likely that he resigned it at latest by his admission to Crick, Northants., on 13 March 1369, for which see Emden, *Biographical Register* 1:164.

<sup>35</sup> LAO, Bishops' Registers 12, fol. 70v.

<sup>36</sup> On 25 and 27 August (*ibid.*, fols. 77v, 78r).

<sup>37</sup> *Ibid.*, fol. 81v.

cise the duties of the officiality, as a coadjutor.<sup>38</sup> It was explicit that de Belvoir's commission was not thereby revoked. If, as is likely, the appointment of a coadjutor was a result of some illness or sense of incapacity, this would also be a plausible prelude to the making of the will, on 5 April 1389. The testator was not conscious, though, of being in imminent danger of death. The proem to the will announces that it is made as a precaution: "wishing to anticipate lest I be taken by surprise, considering human fragility, that nothing is more certain than death, nothing more uncertain than the hour of death."<sup>39</sup> Consistent with this is the fact that the will was not proved until 6 August 1391.<sup>40</sup>

With one exception, nothing can be said of the nature of the connections between the testator and his executors—William Stopelford, rector of Wickenby, Lincs., Master John Keele, rector of Grainthorpe, and William Gretwell, chaplain of the Burghersh chantry in Lincoln cathedral at the time when the will was made and canon of Lincoln by the date of its probation. The exception is Master John Keele (or Kele), who was the coadjutor appointed in October 1389 to assist John de Belvoir in the officiality of Lincoln.<sup>41</sup> It is specified that in case of difficulty, recourse is to be had to the counsel of Master Peter de Dalton, treasurer of Lincoln. Again no special relationship can be traced. Even without such, the treasurer of the cathedral, who was also a bachelor of both laws,<sup>42</sup> would have made an obvious choice as adviser.

The content of the will may be considered under several heads which, however, lend an impression of greater organization than it possesses and which are themselves somewhat fluid. Under explicit religious sentiment may be noted the reference to the blood of the cross, the appeal to mercy rather than justice, the devotion to St. Mary the Virgin, "my patroness," and to SS. Thomas the Martyr, Nicholas, Katherine, and Margaret, the prayer for "reception to grace" and association with "the number of those to be saved," the hope that purgatory in respect of demerits will not be long,<sup>43</sup> echoed more urgently ("by the love of Jesus Christ") in the request that the five trentals, for which are bequeathed twenty shillings, or more at the executors' discretion, shall be celebrated with all haste, "... for I know

<sup>38</sup> Ibid., fol. 361v.

<sup>39</sup> See the text of the will (printed on pp. 138–47 below), ll. 8–9.

<sup>40</sup> D&C A/2/28, fol. 40v.

<sup>41</sup> For an outline of his career, see Emden, *Biographical Register* 2:1028.

<sup>42</sup> Ibid. 2:1352–53 (Newbold alias Dalton). This is an earlier date than noted by Emden for Dalton's tenure of the treasurership. He is noted as keeping the great residence as treasurer from 1383/84 (Edwards, *English Secular Cathedrals*, 344).

<sup>43</sup> See the text below, ll. 15–20.

that I have much need of prayers."<sup>44</sup> While it is not easy in such matters to distinguish the idiosyncratic from the conventional and while a judgement that is impressionistic must not be pressed far, there is in some of this the hint of an intensity that is more than quite commonplace.

A certain puritanism of tone invites particular comment. In the direction for burial—"in the cathedral church of St. Mary, Lincoln, if I shall be residentiary in the time of my death, that is to say, by the tomb of Mr. John Haryngton, on the southern side, if it shall please my lords and confrères [sc. the chapter] to assign that place to me, which I beg to be done out of charity; otherwise, if I shall not be residentiary, I wish to be buried in the conventual church of Belvoir, in the chapel of St. Sitha"<sup>45</sup>—the body is a "cadaver." A hundred shillings are left for funeral expenses, with the prescription that there be only five candles, each of three pounds of wax, "and not more," these to be placed "in manner of a cross," one at the head, one at the feet, one to the right, one to the left, and one upon the breast.<sup>46</sup> There is to be no feasting—though the prohibition is not meant ostentatiously, for if the funeral takes place at Lincoln the local custom is to be observed and if a few friends come the executors may do as they see fit, provided that the main provisions of the will are not jeopardized. Specifically, there is to be nothing else "that tends to the vain pomp of this world."<sup>47</sup>

By contrast with this abstemiousness is the provision for the poor.<sup>48</sup> From the sum for funeral expenses, five marks of silver are to be distributed among the poor on the day and at the place of burial. A hundred paupers—more at the executors' discretion, but not fewer, of whom twenty shall be aged folk—are to be fed and well served, at table, from main courses, on the day before or at latest on the day after the funeral, each to have by the hands of the executors one penny, beyond the five marks, before their departure. In the same manner, a week after the death, sixty paupers are to be fed, each to have a penny before departure.

"Cadaver," absence of pomp conjoined with largesse to the poor, the language (not, here, extravagant language by any means) of a load on the soul: these are among (or, in the case of "cadaver," akin to) ingredients of "Lollard" wills to which McFarlane drew attention.<sup>49</sup> Their presence in

<sup>44</sup> See ll. 42–44.

<sup>45</sup> See ll. 21–26.

<sup>46</sup> See ll. 26–30.

<sup>47</sup> See ll. 44–46.

<sup>48</sup> See ll. 30–41.

<sup>49</sup> For injunctions against pomp in Norwich wills, see N. P. Tanner, *The Church in Late Medieval Norwich 1370–1532*, Studies and Texts 66 (Toronto, 1984), 99–100, but the examples quoted are later. Cf. Vale, *Piety, Charity and Literacy*, 13–14; and J. Hughes, *Pastors and*

this most unexceptionably—in view of the explicit protestation of the proem, one may say “resolutely”—orthodox context reinforces his judgement that “the influences which helped to form the Lollards’ convictions on these points were not confined to them; . . . their excesses of sentiment, the revivalist streak which their wills display, came from exaggerating one aspect of contemporary religion; it was not something that others did not feel.”<sup>50</sup> Though simply put and requiring some caution in view of the difficulty surrounding the definition of Lollardy, McFarlane’s conclusion is neither banal nor passé. If it may be licit, in an assessment of general temper, to exclude the crux of specific doctrinal formulation, of which the most critically divisive position is that on the eucharist,<sup>51</sup> contemporary orthodox and heterodox religion are best thought of as related through a series of fine gradations of outlook.<sup>52</sup> Mutual sympathy and respect between reforming minds throughout the spectrum would be least surprising to the extent that religion had as its focus areas of common concern, issues of “conduct rather than belief,” where the stress was on “personal morality.”<sup>53</sup> This is no doubt true of all periods. The particular significance of the premiss in the context of late fourteenth-century English history is that it helps to explain the relative obscurity which cloaks Lollardy in its initial impact outside the university. As McFarlane characterized it, that obscurity was “largely the obscurity of the tolerated and ignored.”<sup>54</sup> Part of the reason for the tolerance, he proposed, was “the temper of those educated and politic administrators who held the higher offices in the Church: this was too sceptical and too humane for them to become all at once

*Visionaries: Religion and Secular Life in Late Medieval Yorkshire* (Woodbridge, 1988), 124–25, on the connection between austere funerals and the eremitic and more generally ascetic movement of which Lollardy, it is suggested, can be seen also as an aspect.

<sup>50</sup> McFarlane, *Lancastrian Kings and Lollard Knights*, 220.

<sup>51</sup> For the centrality of this, see J. I. Catto, “John Wyclif and the Cult of the Eucharist,” in *The Bible in the Medieval World: Essays in Memory of Beryl Smalley*, ed. K. Walsh and D. Wood, Studies in Church History. Subsidia 4 (Oxford, 1985), 269–86.

<sup>52</sup> Catto, “Religion and the English Nobility,” 54, comments on the temper of the nobility: “The distinction between the attitudes of the conventionally pious and those of critics like the Lollard knights hardly survives analysis.”

<sup>53</sup> See J. A. F. Thomson, “Orthodox Religion and the Origins of Lollardy,” *History* 74 (1989): 39–55 at 45, so characterizing, in the course of a finely nuanced discussion of the eclecticism of early Lollardy, the opinions of “probably the most interesting” of the Lollard knights, Sir John Clanvow (44).

<sup>54</sup> McFarlane, *Lancastrian Kings and Lollard Knights*, 224. This judgement is confirmed by the ad hoc and intermittent pattern of episcopal proceeding against heretical activity in Lincoln diocese under Buckingham, for which see A. K. McHardy, “Bishop Buckingham and the Lollards of Lincoln diocese,” in *Schism, Heresy and Religious Protest*, ed. D. Baker, Studies in Church History 9 (Cambridge, 1972), 131–45.

effective persecutors."<sup>55</sup> If the hypothesis which thus links the reaction to Lollardy with the outlook of officialdom remains attractive, the nuance of "sceptical" and "humane" may be challenged. The case of John de Belvoir suggests rather that for some members of the administrative class McFarlane's other perception, that "the knights' views found more than an echo in many hearts,"<sup>56</sup> may be at once the authentic psychological diagnosis and the convincing aetiology of their diffidence.

The largest part of the will and its most pronounced feature is the extensive provision for commemoration of the deceased: "fifty-six pounds to two chaplains to celebrate for my soul and for the soul of Master William Downe and the souls of my parents<sup>57</sup> and brothers and for the souls of William and John de Belvoir, my (?)wards, and of all others to whom I am obliged by bond of equity, for the seven years immediately following my death, of whom I wish one to celebrate in the church in which my body shall chance to be committed to burial and another in the conventual church of Belvoir, for the whole time aforesaid, so that each chaplain shall celebrate in the aforesaid places and not elsewhere, even by licence of my executors," followed by specific instructions on the liturgy of celebration and on the chaplains' remuneration. On each anniversary of his death, for the first seven years, there is to be a distribution of 6s.8d., "by the hands of my executors or any of them" among the poor of Belvoir, with a similar distribution to the Benedictine convent of Belvoir. If the executors die in the meantime, the money allocated to the poor of Belvoir is to be entrusted to the prior. The prior and convent of the same are to have 40s., paid immediately after the testator's death, on condition that they solemnly celebrate the office of the dead in common for his soul and that each monk in priest's orders shall say three masses, beyond what is customary. The convent of St. Albans, too, have 40s., "so that being notified of my temporal death they shall celebrate a mass solemnly in common, with 'Placebo'<sup>58</sup> and 'Dirige'<sup>59</sup> before, and that each of them in priest's orders shall say three masses for my soul, and the remainder three psalters, which I beg to be done rather by way of charity than in consideration of money." The Premonstratensian abbot and convent of Croxton have 40s., "so that having heard of my temporal death they say 'Placebo' and 'Dirige' and on

<sup>55</sup> McFarlane, *Lancastrian Kings and Lollard Knights*, 224.

<sup>56</sup> *Ibid.*

<sup>57</sup> In context this seems the sense, rather than simply "relations."

<sup>58</sup> The opening antiphon, "Placebo Domino in regione vivorum" (Ps 114:9), from the Office of the Dead at Vespers.

<sup>59</sup> The opening antiphon, "Dirige Domine Deus meus in conspectu tuo viam meam" (cf. Ps 5:9), from the Office of the Dead at Matins.

the morrow a mass solemnly in the convent and that each canon say three private masses for himself and for my soul." This becomes the model for a series of bequests: to the Augustinian canons of St. Mary of the Meadows, Leicester, of Charley, of Ulverscroft and of Owston, to the Premonstratensians of Newbo, to the Augustinians of Launde, to the Cistercians of Garendon, and to the Augustinians of Nocton and of Elsham. The nuns of Grace Dieu, Leics., have 26s.8d., "so that they have a sung Requiem mass<sup>60</sup> celebrated in their church and each nun of the same house shall say 'Placebo' and 'Dirige' and one psalter for me." The nuns of Langley, Leics., have 20s. on the same condition. The Augustinian canons of Kirby Bellars have 40s. to celebrate, "out of charity," as they see fit. Another bequest is made to the prior and convent of Belvoir, "so that a monk or secular priest at their expense shall daily for the five years immediately following my death celebrate in the chapel of St. Sitha of the said priory a Requiem mass for the souls of John de Belvoir, Master William Downe, Brother William de Belvoir, and for the souls of William and John de Belvoir, my wards(?), and of all the faithful departed." Should the prior and convent of Belvoir decline, the legacy is to go on the same conditions to the abbot and convent of Owston, for celebration in the chapel of St. Mary.<sup>61</sup> Whichever house accepts shall give a bond under the common seal in respect of the undertaking. In the event that neither accepts, the executors are to find a secular chaplain to celebrate in the chapel of St. Sitha, Belvoir. It is evidently envisaged that this arrangement will be more expensive. The three orders of mendicants in Leicester—Franciscans, Dominicans, and Augustinians—have each a legacy of 20s. for conventual mass, office, and celebration of three masses by each member in priest's orders, the four orders of mendicants in Lincoln a similar legacy, and the Franciscans of Grantham, Lincs., 13s.4d. The money is to be released without delay after his death; the friars are to have written notice of the conditions and, in the event of their declining, the money is to be otherwise put to pious uses. Each chaplain celebrating in the church of St. Martin, Leicester, in the year of the testator's death is to have 18d. on condition that he say for him "Placebo" and "Dirige" and three private masses, and each chaplain in any other parish church of Leicester 12d. on the same terms. The resident canons of Lincoln, present at his exequies, the vicars choral, and the chaplains wearing the habit have legacies to pray at their discretion, poor clerks so that they say a psalter, and choristers so

<sup>60</sup> *Una missa de Requiem cum nota* (see l. 97 in the text below).

<sup>61</sup> Belvoir accepted. See *The Victoria History of the Counties of England: Lincolnshire*, ed. W. Page (London, 1906), 2:126.

that they say "Placebo" and "Dirige." Bequests not specifically tied to prayers are made to the vicar of Cosby, Leics., and to anchorites, if there be any, of Lincoln, at the time of his death.<sup>62</sup> Finally, separated from this first series by various gifts to pious uses and to individuals, there is a succession of commemorative bequests in and around the testator's native parish. The chaplain, if there be such at his death, of the parish church of Belvoir, is left 6s.8d. to celebrate seven masses with Office for the Dead. Bequests of half that amount, with the same requirement, go to the chaplains of Woolsthorpe, Redmile, Muston, Harston, Knipton, Branston, Harby, and Stathern, to the vicars of Hose, Plungar, and Barkestone, and to the chaplain of Bottesford.<sup>63</sup> This second series of commemorations may be followed on a map as plotted systematically in the mind's eye. With a stray bequest, evidently an afterthought, of 26s.8d. to the Augustinian priory of Markby, Lincs., on the same terms as that to Croxton, and an incidental commemoration arising from a restoration of chantries in Lincoln cathedral, it concludes a veritable battery of obituary provision.

The obituary provision which is thus so pronounced a feature of the will is not quite the purchase of paradise. Its aim, overt from the beginning, is less ambitious: the shortening of purgatorial preparation for a soul received by God's grace and established "in accordance with the multitude of his mercy . . . among the number of those to be saved" (the precision is peculiarly reminiscent of contemporary debate in the schools).<sup>64</sup> If, however, the dispositions seem to a later age rebarbatively mechanical, the effect is relieved perhaps by two features, characteristic both of medieval theology and of medieval culture as a whole—a strong sense of continuing community and, closely related, of locality.

The sense of continuing community emerges most overtly in the occasional distinction, touchingly made, between the generality of bequests linked to commemoration and those where the testator hopes to be remembered more out of charity than for his endowment. The Carthusians of Beauvale, Notts., have five marks later in the will, simply that they bear him specially in their memories for as long as they please.<sup>65</sup> That the monks of St. Albans or the canons of Leicester might spontaneously break into "Placebo" and "Dirige" at the news of his temporal death must have been a gratifying reflection, and that the clergy of Lincoln cathedral should

<sup>62</sup> For all the preceding provisions discussed in this paragraph, see the text below, ll. 49–147.

<sup>63</sup> See ll. 172–81.

<sup>64</sup> See ll. 20–21. The scribe at first missed the nuance, writing "sanctorum" for "salvandorum" (D&C A/2/28, fol. 41r).

<sup>65</sup> See ll. 220–22.

need no direction on how to requite their legacies is as optimistic an expectation of collegiality as might be entertained by all but the most sanguine at the end of a career. Optimism has its limits. In general, a lawyer's mind is at work.

The sense of place is especially strong: *Te decet hymnus Deus in Sion*. From around Belvoir shall ascend orchestrated prayer. The bureaucrat is not faceless to his contemporaries. Neither is he, least of all in death, *déraciné*.

Aside from the poor relief associated with the funerary provisions and obits, there is a variety of pious works: to the repair of the parish church and of the chapel of St. Mary, Cosby, Leics., 40s. and 13s.4d., respectively; to the fabric of Lincoln cathedral and the high altar, 40s. and 36s. 8d.; to the holy land (that is, the crusade), 40s., a sum that the testator had himself received from an unspecified source for the purpose (the money was to be delivered to the papal collector in London and—contrary to what might be expected, in view of the strictures of the satirists—the possibility was entertained that he might decline to receive it, in which case it was to be expended on the poor for the souls of those from whom the testator had it);<sup>66</sup> bequests unconnected with obit to the parish churches of Belvoir and Redmile; to his old church of Kirkby Mallory, a bed-hanging (*lectus*) adorned with a picture of St. Katherine (to whom his devotion has already been noted) to be retained in a chest for use in a liturgical enactment of the Passion on Good Friday and as a covering of the bier at funerals; also 20s. for repairs; for prisoners at Lincoln and Leicester gaols, 6s.8d in each case; for the poor in the hospitals of St. Mary and of St. John, Leicester, 3d. a head and 6d. a head, respectively, the distinction proceeding perhaps from a perception of relative need, since the hospital of St. Mary had been generously endowed by Henry, duke of Lancaster;<sup>67</sup> to the poor of the hospital of St. Sepulchre and of SS. James and Katherine, Lincoln (called by him simply the house of St. Katherine), 12d. a head, the larger amount in this case being prompted perhaps by the devotion previously referred to; 12d. to each cottager in the vill of Cosby at the time of his death; 26s.8d. for distribution according to need among the poor of Belvoir within four days of his death; 20s. among the poor of Kirkby Mallory; the large bequest of £25 for support of chantries in Lincoln cathedral whose chaplains' salaries, at between five and six marks, were judged inade-

<sup>66</sup> See ll. 151–54 for this provision, and see ll. 143–46 and 150–51 for the preceding provisions mentioned here.

<sup>67</sup> See A. H. Thompson, *The History of the Hospital and the New College of the Annunciation of St. Mary in the Newarke, Leicester* (Leicester, 1937), 22, 27.

quate<sup>68</sup>—the sum to be held by the sacrist and succentor for disbursement at Michaelmas, under supervision of the senior canon, in augmentation of the chaplains' salaries over ten years, during which they were to commemorate him at Mass (there was evidently difficulty in recruiting personnel for these chantries, as alternative provision was made for disbursement of the money should they not be occupied at the testator's death); a gilded silver ewer for the perpetual use of the great altar of Belvoir priory; a sum, written defectively but probably 40s., for painting the image and tomb of little St. Hugh of Lincoln; 40s. for the poor of the church of Charlton on Otmoor.<sup>69</sup> On each Friday, for seven years after his death, five pence are to be distributed to the poor of Belvoir—especially poor widows—for his soul and the souls of those to whom he is obliged, by the agency of his brother Thomas or, in the event of the latter's death meantime, by the prior of Belvoir. As a practical measure to overcome the problem known to the social security of a later age and perhaps too as a safeguard—the lawyer's mind again at work—this disposition is to be published to the poor of the town. Forty shillings are to be distributed among the poor of Kirton in Lindsey and Welton, Lincs., both prebendal churches of Lincoln cathedral. Finally, it is specified that the residue of his goods, not bequeathed, shall be distributed among the poor of Belvoir, Woolsthorpe, Barkestone, and Muston.<sup>70</sup>

Two items of personal belongings have already been noted as bequeathed to pious uses, the bed-hanging to Kirkby Mallory church and the silver ewer to the high altar of Belvoir. As might be expected, though, the main references to personal belongings form a group with the legacies to individuals. The prior of Belvoir is also to have a second-best silver goblet, "made in manner of a chalice," with lid, for his own use and that of his successors.<sup>71</sup> The same priory receives his Bible, containing all the books of the New and Old Testaments, together with the exegetical homilies of

<sup>68</sup> The sum provided for the chaplains celebrating for seven years after his own death was to be six marks initially, to be increased at discretion with the passage of time, and the total sum specifically bequeathed for the purpose works out at six marks annually. For statutory rates in Canterbury province, see B. H. Putnam, "Maximum Wage-Laws for Priests after the Black Death, 1348–1381," *The American Historical Review* 21 (1915–16): 12–32. By about 1425 the effective rate in Norwich had risen to eight marks a year, one mark more than the maximum prescribed for cantarists in the Canterbury legislation of 1378–79; see Tanner, *Church in Late Medieval Norwich*, 108–9.

<sup>69</sup> See the text below, ll. 154–56, 159–60, 165–72, 184–88, 195–98, 204–20, 223–25, and 232–34, for the preceding.

<sup>70</sup> See ll. 238–51.

<sup>71</sup> See ll. 70–73.

John Chrysostom.<sup>72</sup> To his brother Thomas, he leaves twenty marks and his second-best horse at the time of his death; also a second-best mazer, twelve decorated pewter bowls, and twelve silver spoons.<sup>73</sup> To his nephew, John, he leaves one hundred shillings and his "little psalter"; to his niece Marianne, daughter of Thomas, five marks and to Marianne's mother, Emma, his best gown and two marks; to Matilda, wife of his deceased brother, Robert, his second-best gown; to William Stapulford, chaplain—identical, as appears from a reference elsewhere, with the William Stopelford, "chaplain," rector of Wickenby, Lincs., his executor—five marks, a dozen decorated pewter vessels, his second-best bed, a second-best mazer with lid, and, separately, a silver goblet with lid;<sup>74</sup> to Roger de Osgodthorp and Roger Wychekek, evidently unbeneficed clerks with whom his connection is unspecified (they may perhaps have been active in the administration), "a suitable gown" and 20s., respectively, that they keep his soul specially in their minds;<sup>75</sup> to a John de Norton, with whom again his relationship is unspecified, 26s.8d.<sup>76</sup> The executors are instructed to remunerate each member of his household, according to rank and extent of service, adequately beyond what is owed in salary. A specific bequest of 20s. is made to his chamberlain, John.<sup>77</sup> Payments of 26s.8d. to the executors of Robert Bolyngbroke, late clerk of the fabric of Lincoln cathedral, and of 10s. to the executors of Robert de Belvoir must be thought to be discharge of debts, as the preceding payment of 100s. to the executors of Ralph de Belvoir evidently is, since the sum is to be paid unless the executors waive part of it.<sup>78</sup>

One category of personal belongings required some particular provision. From the details of the will it would not appear that John de Belvoir's library was large, though the residue of the estate to be sold by his executors<sup>79</sup> may perhaps have included books. One book that he is known to have owned, "a certain book of sermons," lent for a time to Master William Doune, does not appear in his will.<sup>80</sup> His Bible, the homilies of Chrysostom, and a "little psalter" (was there, then, another?) have already been noticed as disposed of among specific bequests. Besides them only

<sup>72</sup> See ll. 78–79.

<sup>73</sup> See ll. 147–50.

<sup>74</sup> See ll. 156–59, 160–62, and 222–23.

<sup>75</sup> See ll. 162–65.

<sup>76</sup> See ll. 181–82.

<sup>77</sup> See ll. 231–32.

<sup>78</sup> See ll. 233–38.

<sup>79</sup> See ll. 248–56.

<sup>80</sup> Thompson, "Will of Master William Doune," 283.

two books are mentioned: a copy of the *Summa Aurea* of the thirteenth-century canonist, Henry of Susa (Hostiensis)—which the testator had had bequeathed to him in the will of Master William Doune, for his lifetime use only, with reversion to the abbey of Osney<sup>81</sup>—was now to be restored, in accordance with that stipulation; and a book of decrees bound, without boards, in leather, which had also belonged to William Doune, was to be sold, preferably by the executors, or else passed to Osney abbey for sale by it, and the price was to be distributed for Doune's soul.<sup>82</sup> It must be assumed that the commentaries of William de Mandagout, which had similarly been bequeathed to him for his personal use for as long as he wished, had already been conveyed to Osney.<sup>83</sup>

The references to William Doune are a noteworthy aspect of the will, though their full significance is part of a wider argument that cannot be pursued here. That there are four separate points at which Doune's name recurs itself testifies to the bond between the testator and his former principal. Two are in the provisions for obits: Doune's name is linked with the testator's own and those of his relations and wards and of all others to whom he is obliged "by bond of equity" in the arrangement for the two chaplains to celebrate for seven years,<sup>84</sup> and this is repeated with slight variation in the requirement that there be daily celebration for five years in the priory of Belvoir.<sup>85</sup> The third reference is in the disposition, just noted, that the book of decrees be sold and the price distributed. Here there is an additional point of interest in the stipulation that the distribution is to be "among poor nuns and other poor religious [sc. regulars], not among the friars, for the soul of Master William de Doune, for the books are his."<sup>86</sup> If there is any doubt of the nuance here, the inappropriateness in some way that a distribution on behalf of William Doune should be to friars, the doubt is removed by the repetition of the stipulation. In a handsome arrangement for the distribution of one hundred marks for Doune's soul in the archdeaconry of Leicester,<sup>87</sup> twenty marks are to be allotted to the houses of possessioner religious, "not of friars." The restriction is the more arresting for the fact that John de Belvoir himself evinces no antipathy on this score (the stipulation that the friars to

<sup>81</sup> Ibid.

<sup>82</sup> See the text below, ll. 190–95.

<sup>83</sup> Thompson, "Will of Master William Doune," 283.

<sup>84</sup> See the text below, ll. 49–57.

<sup>85</sup> See l. 106.

<sup>86</sup> See ll. 192–93. There is evidently a conflation, in the reference to *libri*, of the book of decrees and the *Summa* of Hostiensis.

<sup>87</sup> See ll. 225–30.

whom he makes bequests of his own part be given written notice of the conditions is perhaps to be judged in keeping with his general circumspection). Nor would it in the abstract be safely deduced from Doune's own will, which makes provision (ten marks) "for the clothing and habits of old, weak and abject friars and of lesser reputation among them, *provided they be devout*, wherever in England they may be found most wanting,"<sup>88</sup> and makes modest provision specifically for the fabric or repair of the Franciscan house at Exeter (five marks), for the uses of the Dominicans and of abject mendicant friars wherever they be in England (five marks),<sup>89</sup> and for the four orders of friars at Oxford (five marks to each house).<sup>90</sup> However, the hint in John de Belvoir's will of William Doune's views complements other evidence. It accords with the very clear implication of material in the Lincoln register that the administration under Bishop Gynwell, when Doune was official, was in sympathy and in close touch with the campaign against the friars' privileges waged by Archbishop FitzRalph of Armagh at the Roman curia in the years 1357–60.<sup>91</sup> Moreover, it reinforces a case that is otherwise strong for Doune's authorship of the *Memoriale Presbiterorum*, which, as Dr. Pantin observed, on several points—including its criticisms of the friars—anticipated FitzRalph's views.<sup>92</sup>

The reserve in this context on the subject of the friars and the explicit regard for Doune is not the only information conveyed by John de Belvoir's will both for Doune's character and for the relationship between them. John de Belvoir's provision for advertisement to aid the discharge of his debts ("I will that there be made a public proclamation in each deanery of the archdeaconry of Leicester that if anyone can prove in good faith that I received anything from him unjustly it shall be restored to him"<sup>93</sup>) suggestively echoes and in context must be held an imitation of the rather more elaborate provision in Doune's will for a similar proclamation both in

<sup>88</sup> "... pro vestibus et habitibus senium fratrum et debiliū et abiectorum et minoris reputationis inter eos, honestorum tamen et devotorum, ubicumque in Anglia tales magis reperti fuerant [sic: for *fuerint*] indigentes" (Thompson, "Will of Master William Doune," 276).

<sup>89</sup> Ibid., 267–68.

<sup>90</sup> Ibid., 268.

<sup>91</sup> See M. J. Haren, "Bishop Gynwell of Lincoln, Two Avignonese Statutes and Archbishop FitzRalph of Armagh's Suit at the Roman Curia against the Friars," *Archivum Historiae Pontificiae* 31 (1993): 275–92.

<sup>92</sup> Pantin, *English Church*, 206. Cf. M. J. Haren, "Social Ideas in the Pastoral Literature of Fourteenth-Century England," in *Religious Belief and Ecclesiastical Careers in Late Medieval England*, ed. C. Harper-Bill, Studies in the History of Medieval Religion 3 (Woodbridge, 1991), 43–57 at 50. A study on which I am engaged of the *Memoriale Presbiterorum* as a product of Doune's service in the administration of John Grandisson, bishop of Exeter, will consider the implications of the treatise for the development of FitzRalph's hostility to the friars.

<sup>93</sup> See the text below, ll. 202–4.

his archdeaconry of Leicester and in the diocese as a whole.<sup>94</sup> Professor Hamilton Thompson, editor of the extant part of Doune's will, thought that his confession of fault on the subject of archidiaconal exactions was symptomatic of the ill behaviour widely alleged of his counterparts in office.<sup>95</sup> As I shall hope to show elsewhere, Doune's misgiving is to be judged not so much evidence of abuse as of extreme sensitivity to abuse, a sensitivity that developed during his service from the early 1330s with the zealous reformer, John Grandisson, bishop of Exeter, and that can be traced in the administration of the diocese of Lincoln during the period of John de Belvoir's officiality.<sup>96</sup> The specification of the archdeaconry may imply that John de Belvoir's concern here was primarily with archidiaconal procurations for which as archdeacon's official he would have had a responsibility. Whatever its reference, his punctiliousness may plausibly be deemed to bear the mark of his sometime principal and predecessor as diocesan official, whose memory was still fresh in his thoughts at the end of his life. Unusual as an insight into the mind of an ecclesiastical administrator, John de Belvoir's will is doubly unusual for its witness to a continuing, evidently intense sympathy between successive generations of administrators. An interesting document in its own right and in its immediate contemporary context, it also contributes incidentally but precious to the evidence for reconstructing an earlier phase of reflection and activity.

<sup>94</sup> Thompson, "Will of Master William Doune," 280.

<sup>95</sup> Ibid., 243–44. Cf. A. H. Thompson, *The English Clergy and their Organization in the Later Middle Ages* (Oxford, 1947), 60–61.

<sup>96</sup> The evidence is a series of mandates that constitute a determined onslaught on illicit archidiaconal exactions (LAO, Bishops' Registers 12, fol. 156r–v [22 September 1377]; fol. 230r [24 October 1381]; fols. 245v–246v [26 July 1381]; fol. 246v [30 September 1381]; fol. 246v [16 May 1382]; fol. 332r–v [28 September 1386]; fol. 361v [10 November 1389]).

Lincolnshire Archives Office, Muniments of the Dean and Chapter of Lincoln  
A/2/28, fols. 41r–43r

*Testamentum Johannis de Beluero canonici Linc'*

In Dei nomine, Amen, et individue Trinitatis et fidei catholice quam indubi-  
tanter agnosco et semper firmiter credo et omnes articulos eiusdem teneo et pro-  
testor, sana mente existens, me velle tenere in omnibus et credere, sicut san <et> a  
5 mater ecclesia credit et docet esse credendum. Hac ergo fide, ego Johannes de  
Beluero, canonicus ecclesie cathedralis beate Marie Lincoln', die lune<sup>1</sup> proxima  
post festum sancti Ambrosii episcopi anno domini millesimo CCC<sup>o</sup> Octogesimo  
nono, volens prevenire ne preveniar, considerans humanam fragilitatem quod nil  
cercius morte, nil incercius hora mortis, condo testamentum meum. Diversis cri-  
10 minibus irretitus, cum cordis contricione ipsum Deum, patrem, filium et spiritum  
sanctum, rogo et deprecor, quem nulla latent secreta, quatinus hanc fidem meam  
in premissis, tempore exitus spiritus mei a corpore et in die magni iudicii, dignetur  
recipere, ne hostis antiquus animam meam perturbet invidus.

In primis lego animam meam Deo, qui eam sacr <a> tissimo sanguine suo in  
15 ara crucis redemit, et sancte Marie, matri sue, domine mee et patrone, cuius preci-  
bus, licet non meis meritis, credo et spero firmiter adiuvari, sanctis Thome martiri,  
Nicholao, Katerine et Margarete, rogans Dei misericordiam non iusticiam, qua-  
tinus, eorum et omnium sanctorum precibus inclinatus, dignetur animam meam  
miseram ad gratiam suam recipere et eam non diu permittat pro peccatis iuxta  
20 demerita mea cruciari set eam secundum multitudinem misericordie <s>ue dig-  
netur in salvandorum numero collocare. Item lego cadaver meum sepeliendum in  
ecclesia cathedrali beate Marie Lincoln', si residenciarius fuero in eadem tempore  
mortis mee, videlicet iuxta tumulum magistri Johannis Haryngton',<sup>2</sup> ex parte  
australi, si placuerit dominis et confratribus michi locum illum assignare, quod

1 Testamentum . . . Linc' marginal heading in the registering hand; on succeeding folios the  
marginal heading De eodem indicates the continuation of the registration 4 sancta] sana MS  
14 sacratissimo] sacrotissimo MS 20 sue] tue MS 21 salvandorum] sanctorum deleted  
and corrected above line meum] ad deleted after the word

<sup>1</sup> 5 April.

<sup>2</sup> John Harrington was at death, ante 24 April 1344, prebendary of St. Cross (J. Le Neve,  
*Fasti Ecclesiae Anglicanae 1300–1541*, vol. 1: *Lincoln Diocese*, ed. H. P. F. King [London, 1962],  
100).

25 fieri peto intuitu caritatis. Alioquin, si non fuero residenciarius, volo sepeliri in  
 ecclesia conventuali de Beluero<sup>3</sup> in capella sancte Sithe virginis. Item lego pro  
 expensis funeralibus circa corpus meum die sepulture mee centum solidos et volo  
 et precipio quod tantum fiant quinque cerei, quilibet de tribus libris cere, et non  
 30 plures, quos poni volo unum ad capud, alium ad pedes, unum ad dextrum et aliud  
 ad sinistrum et unum supra pectus et sic positi fiant ad modum crucis. Item volo  
 quod in loco ubi me sepeliri contigit distribuuntur quinque marce argenti inter  
 pauperes die sepulture mee. Item volo quod centum pauperes pascantur prece-  
 dente die sepulture mee, vel saltem die immediate sequente, vel plures iuxta  
 35 dispositionem executorum meorum, sic quod non detrahatur de alio numero cen-  
 tum. Et volo ut eisdem ad mensam / fol. 41v / honeste de grossis cibariis deser-  
 viatur. Item volo quod quilibet de dictis centum habeat per manus executorum  
 meorum unum denarium ante recessum eorundem et hoc ultra summam quinque  
 marcarum. Et volo quod in illo numero centum (?)seniores viginti persone sint.  
 Item volo quod eodem modo octavo die mortis mee pascantur sexaginta persone  
 40 pauperes et quod quilibet eorum habeat unum denarium ante recessum eorun-  
 dem. Item lego xx. solidos pro celebratione quinque triennialium pro anima mea  
 vel magis iuxta votum executorum meorum. Et rogo amore Ihesu Christi quod illa  
 triennalia cum omni festinatione post mortem meam celebrentur, quia scio me  
 multum oracionibus indigere. Item nolo quod fiat aliquod convivium die sepulture  
 45 mee nisi quatenus consuetudo ecclesie Lincoln' exigit, si ibi me contigerit sepeliri,  
 nec aliquod aliud quod tendit ad vanam pompam huius mundi. Si autem veniant  
 aliqui amici mei non rogati, faciant executores mei quod viderint faciendum, sic  
 tamen quod voluntas mea inferius scripta in nullo impediatur in periculo ani-  
 marum suarum. Item lego quinquaginta sex libras duobus capellanis ad celebra-  
 50 dum pro anima mea et pro <sc. anima> magistri Willelmi Downe<sup>4</sup> et animabus  
 parentum et fratrum meorum et pro animabus Willelmi et Johannis de Beluero,  
 alumpnorum meorum, et omnium aliorum quibus teneor aliquo vinculo equitatis,  
 per septem annos post mortem meam immediate sequentes, quorum unum volo  
 55 celebrare in ecclesia in qua corpus meum tradi sepulture contigerit et alium in  
 ecclesia conventuali de Beluero per totum tempus supradictum, sic quod quilibet  
 capellanus celebret in locis supradictis et non alibi, eciam de licencia executorum  
 meorum. Et volo quod iidem capellani celebrent diebus lune, mercurii et veneris  
 de Requiem, prout officium mortuorum requirit, die Sabbati de sancta Maria, cum

34 alio for illo (?)      38 seniores] se(?)ycies MS

<sup>3</sup> Belvoir, O.S.B., Lincs.

<sup>4</sup> Archdeacon of Leicester and official of Lincoln, † ante June 1361. For an outline of his career, see A. B. Emden, *A Biographical Register of the University of Oxford*, 3 vols. (Oxford, 1957–59), 1:587–88.

collecta pro anima mea et animabus fidelium defunctorum, ceteris diebus prout  
 60 eis placuerit, sic tamen quod singulis diebus habeant unam col<l>ectam pro  
 anima mea, et quilibet capellanus quolibet anno de dictis septem annis percipiat  
 pro salario suo sex marcas vel magis secundum cursum temporis, prout executores  
 mei melius poterint convenire, sic quod omnino celebrent per tempus supra-  
 dictum. Item volo quod de quolibet anno de dictis septem annis primis, videlicet  
 65 die anniversarii mei, distribuatur apud Beu<sup>5</sup> inter pauperes eiusdem ville vi.s.  
 viii.d. Item volo quod conventus de Beluero quolibet anno dictorum septem anno-  
 rum die anniversarii mei habeat vi.s. viii.d. per manus executorum meorum seu ali-  
 cuius eorundem. Et si interim moriantur, volo quod dicta peccunia pro residuo  
 temporis ponatur in manibus prioris qui pro tempore fuerit de (?) <sustin>encia  
 70 pauperum dicte ville. Item lego priori eiusdem loci qui pro tempore fuerit unum  
 ciphum argenteum (?) <eciam> cum coopertura secundum meliorem, factum ad  
 modum calicis, sibi et successoribus suis ad usum prioris qui pro tempore fuerit, in  
 eodem prioratu remansurum. Item lego priori et conventui eiusdem loci quadra-  
 ginta solidos quos eisdem solvi volo statim post mortem meam, sic quod of<f>i-  
 75 cium mortuorum solempniter faciant celebrari in communi pro anima mea et  
 quod quilibet in ordine sacerdotali constitutus inter eos dicat tres missas pro  
 anima mea et animabus omnium fidelium defunctorum ultra hoc quod tenentur de  
 consuetudine dicere. Item lego dicto prioratui Bibliam continentem omnes libros  
 novi testamenti et antiqui et Johannem Cricostum.<sup>6</sup> Item lego conventui de sancto  
 80 Albano<sup>7</sup> xl.s., ut ipsi, cerciorati de morte mea temporali, celebrent unam missam  
 solempniter in communi, cum Placebo et Dirige precedentibus, et quilibet in  
 ordine sacerdotali inter eos constitutus dicat tres missas pro anima mea; ceteri  
 vero tria psalteria; que fieri peto potius caritative quam ratione pecunie. Item lego  
 85 abbati et conventui de Croxton<sup>8</sup> xl.s., ita quod audita morte mea temporali dicant  
 Placebo et Dirige et in crastino unam missam solempniter in conventu et quilibet  
 canonicus tres missas privatas pro se et anima mea. Item lego abbati et conventui  
 beate Marie de Pratis, Leycestr',<sup>9</sup> xxvi.s. viii.d., ut dicant et celebrent pro me,  
 caritatis intuitu, modo et forma canonicis de Croxton' impositis. Item priori et  
 conventui de Charley<sup>10</sup> xxvi.s. viii.d., ut dicant et celebrent pro me, sicut canonicis

69 sustinencia] *the parchment is damaged here  
 it is unclear whether a word has been lost*

71 eciam] *the parchment is damaged and*

<sup>5</sup> Belvoir, Lincs.

<sup>6</sup> The homilies of John Chrysostom (†407), containing scriptural commentaries.

<sup>7</sup> St. Albans, O.S.B., Herts.

<sup>8</sup> Croxton, O.Prem., Leics.

<sup>9</sup> St. Mary of the Meadows, O.S.A., Leicester.

<sup>10</sup> O.S.A., Leics.

- 90 de Croxton' est impositum. Item priori et canonicis de Ulverescroft<sup>11</sup> xxx.s. Item  
 abbati et conventui de Ulweston<sup>12</sup> xl.s., ut celebrent et dicant pro me sicut de  
 Croxton' est impositum. Item abbati et conventui de Newbo<sup>13</sup> xxvi.s. viii.d. Item  
 priori et canonicis de Launde<sup>14</sup> xx.s. Item abbati et conventui de Gerondon<sup>15</sup> xxvi.s.  
 viii.d. Item priori et canonicis de Nocton<sup>16</sup> xx.s. Item priori et canonicis de  
 95 Elsham<sup>17</sup> c.s. Et volo et precipio quod quilibet istorum faciat in domo sua et dicat  
 pro me sub modo et forma canonicis de Croxton' impositis. Item lego monialibus  
 de Gracia Dei<sup>18</sup> xxvi.s. viii.d., ita quod faciant unam missam de Requiem cum nota  
 in ecclesia earundem celebrari et qualibet monialis / fol. 42r / eiusdem domus  
 dicat Placebo et Dirige et unum psalterium pro me, et sub istis modo et forma  
 100 lego monialibus Langeley<sup>19</sup> in archidiaconatu Leycestric xx.s. Item lego priori et  
 conventui de Kyrkeby Belers,<sup>20</sup> ut celebrent pro me caritatis intuitu prout eis visum  
 fuerit, xl.s. Item lego priori et conventui de Beluero <lv.><sup>21</sup> li. xiii.s. iii.d. sub ista  
 condicione quod unus monachus, vel secularis sumptibus eorundem, singulis die-  
 bus per quinque annos post mortem meam immediate sequentes in capella sancte  
 105 Sithe eiusdem prioratus celebret unam missam de Requiem pro animabus Johan-  
 nis de Beluero, magistri Willelmi Downe, fratris Willelmi de Beu', et animabus  
 Willelmi et Johannis de Beu', alumpnorum meorum, et omnium fidelium defunc-  
 torum. Et si idem prior et conventus de Beu' noluerint dictum onus recipere, tunc  
 et non aliter dictam summam peccunie lego abbati et conventui de Ulweston<sup>22</sup> sub  
 110 eisdem condicione et forma quibus requiritur illis de Beluero, videlicet quod ipsi  
 faciant in capella beate Marie in ecclesia eiusdem domus per omnia sicut illis de  
 Beluero inponitur celebrare. Et si neuter eorum voluerit dictum onus admittere,  
 tunc volo quod executores mei addant ad dictam summam peccunie prout eis vide-  
 bitur expedire sic quod unus capellanus secularis celebret <in> capella sancte

114 in] *the parchment is damaged here*

<sup>11</sup> Ulverscroft, O.S.A., Leics.

<sup>12</sup> Owston, O.S.A., Leics.

<sup>13</sup> O.Prem., Lincs.

<sup>14</sup> O.S.A., Leics.

<sup>15</sup> Garendon, O.Cist., Leics.

<sup>16</sup> O.S.A., Lincs.

<sup>17</sup> O.S.A., Lincs.

<sup>18</sup> Grace Dieu, O.S.A., Leics.

<sup>19</sup> Langley, O.S.B., Leics.

<sup>20</sup> Kirby Bellars, O.S.A., Leics.

<sup>21</sup> On account of a creasing of the parchment, I have been unable to read the figure. *The Victoria History of the Counties of England: Lincolnshire*, ed. W. Page (London, 1906), 2:126, gives the sum as £55 16s. 8d., from British Library, Ms. Sloane [*recte* Additional] 4936, fol. 110. However, the reading of the will in respect of the remainder of the sum is clearly xiii.s. iii.d. (sc. one mark).

<sup>22</sup> See n. 12 above.

- 115 Sithe de Beluero per septem annos supradictos, et volo quod si una domus vel alia  
receperit peccuniam supradictam quod faciant executoribus meis unam obligacio-  
nem sufficientem sub sigillo eorum communi de predicto onere inveniundo per  
tempus supradictum. Et fieri volo alterum numerum trium capellanorum supra-  
dictorum. Item lego fratribus minoribus ordinis Leycestrie<sup>23</sup> xx.s., ut celebrent pro  
120 anima mea unam missam in conventu cum nota de officio mortuorum cum Pla-  
cebo et Dirige die prec<e>dente et quod quilibet dicte domus in ordine sacer-  
dotali constitutus dicat tres missas pro anima mea; item fratribus predicatoribus  
eiusdem ville xx.s.; item fratribus ordinis sancti Augustini eiusdem ville xx.s.; sub  
illa forma et condicione quibus superius legavi minoribus eiusdem ville; et sub eis-  
125 dem forma et condicione et non aliter<sup>24</sup> item lego cuilibet ordini fratrum mendi-  
cancium Linc'<sup>25</sup> xx.s., hoc est inter quatuor ordines quatuor libras equaliter  
dividendo. Et sub eisdem forma et condicione lego fratribus de Graham<sup>26</sup> xiii.s.  
iiii.d. Quam peccuniam rogo executores meos liberare dictis fratribus cum omni  
festinacione qua com<m>ode possunt post mortem meam et quod in solucione  
130 peccunie forma voluntatis mee cuilibet ordini ostendatur in scriptis, et si onus  
recusent nichil habeant de legalis set expendantur in alios pios usus. Item lego  
cuilibet capellano celebranti in ecclesia sancti Martini Leycestrie<sup>27</sup> illo anno quo  
me ab hoc seculo contigerit pertransire xviii.d. sub condicione quod quilibet pro  
me dicat Placebo et Dirige et tres missas privatas. Item lego cuilibet capellano  
135 celebranti in aliqua alia ecclesia parochiali Leycestr' xii.d. sub forma capellanis  
celebrantibus in ecclesia sancti Martini imposita. Item dominis confratribus meis  
ecclesie Linc' residentibus, presentibus in exequiis meis, cuilibet vi.s. viii.d., et  
vicariis in choro eiusdem ecclesie xx.s., ut pro me orent sicut eis placuerit. Item  
capellanis habitum portantibus in eadem ecclesia xiii.s. iiii.d. Item pauperibus  
140 clericis, cuilibet eorundem xii.d., sic quod quilibet eorum dicat unum psalterium  
pro anima mea. Item cuilibet choristarum xii.d., ita quilibet eorum dicat pro me

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121 precedente] precedente MS

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<sup>23</sup> Leicester.

<sup>24</sup> The punctuation of the series of bequests here presented in a single sentence is problematical. In the manuscript *item* at the several occurrences is written with a capital letter and the stipulation *sub illa forma et condicione quibus superius legavi minoribus eiusdem ville* reads as attaching to the Augustinians' legacy. However, it is reasonable to suppose that the bequest to the Dominicans of Leicester was subject to the same condition as governed those to the Franciscans and Augustinians. In the manuscript the phrase *et sub eisdem forma et condicione et non aliter* is punctuated as part of the clause preceding that to which it is here assigned, and the following word *item* is written with a capital letter. It is probable, however, that it should be joined, as here, to the following bequest, to which no condition otherwise attaches. The nuance in regard to the Augustinian convent of Leicester is altered accordingly.

<sup>25</sup> Lincoln.

<sup>26</sup> Grantham, O.F.M., Lincs.

<sup>27</sup> St. Martin's, Leicester.

- Placebo et Dirige. Item lego vicario ecclesie parochialis de Cosby<sup>28</sup> qui pro tempore fuerit vi.s. viii.d. Item lego ad refeccionem ecclesie parochialis de Cosby xl.s., et xiii.s. iiii.d. ad refeccionem capelle beate Marie eiusdem ville, sic quod peccunia
- 145 expendatur in usum predictum infra annum post recepcionem, per visum vicarii qui pro tempore fuerit. Item lego ancoritis Lincoln', si que sint tempore mortis mee, cuilibet eorum ii.s. Item lego Thome, frat<r>i meo, xx. marcas et equum meum secundum meliorem quem contigerit me habere tempore mortis mee. Item unum masor secundum meliorem, unum dosen vasorum garnest de pewter et xii.
- 150 clocliar<ia> argentea cum glandibus. Item fabrice ecclesie Linc' xl.s. et summo altari xxvi.s. viii.d. Item terre sancte xl.s., quam peccuniam volo liberari clerico domini pape apud London', quia tantum recepi ad illum usum, et si ipse noluerit recipere, expendatur dicta peccunia inter pauperes pro animabus illorum qui illam peccuniam reliquerunt. Item lego fabrice ecclesie parochiali de Beluero<sup>29</sup> xl.s. et
- 155 unum vestimentum repertum in capella mea post mortem meam et calicem et omne ornamentum pro altari. Item Johanni, nepoti meo, c.s. et psalterium meum parvum. Item Mariane, filie Thome, fratris mei, v. marcas et Emme, matri eiusdem, meliorem robam meam integram et ii. marcas. Item lego Matilde, quondam uxori Roberti, fratris mei, unam robam integram secundam meliorem. Item
- 160 ecclesie de Redmyld<sup>30</sup> pro uno vestimento emendo xl.s. Item domino Willelmo Stapulford,<sup>31</sup> capellano, v. marcas et unum dosen de pewter garnest et unum lectum secundum meliorem et unum maser coopertum secundum meliorem. Item lego domino Rogero de Osgodthorp' / fol. 42v / unam robam competentem; item domino Rogero Wychekek xx.s.; ut ipsi habeant animam meam in memoria eorum
- 165 specialiter recom<m>endatam. Item ecclesie de Kyrkeby Malerey<sup>32</sup> lectum meum depictum cum historia beate Katerine pro sep<ulcro> domini tegendo in die Parascevee et eciam ad iacendum super feretra mortuorum tempore exequiarum, et nolo quod (?)v<eniat> in custodia<m> rectoris seu ipsius capellani set quod remaneat in una cista in dicta ecclesia ad opus supradictum per prepositos eius-
- 170 dem ecclesie liberandus. Item eidem ecclesie de Kyrkeby lego xx.s. pro reparacione eiusdem; incarceration<atis> Lincoln' tempore mortis mee vi.s. viii.d.; et vi.s.

147 eorum thus masculine but note que above      150 clocliar<ia>] the intended expansion is unclear from the abbreviation mark; thus presumably for coclia or a variant: spoons      166 sepulcro obscured by a creasing in the parchment      tegendo] tengendo MS      168 nolo] possibly volo; cf. the difficulty noted next      veniat obscured by a creasing in the parchment      171 incarceration<atis> obscured by a creasing in the parchment

<sup>28</sup> Leics.

<sup>29</sup> Belvoir, Lincs. and Leics.

<sup>30</sup> Redmile, Leics.

<sup>31</sup> Rector of Wickenby, Lincs. See nn. 59, 67 below.

<sup>32</sup> Kirkby Mallory, Leics.

- viii.d. incarceratis Leycestrie. Item <(?)sc. capellano> parochie de Beluero,<sup>33</sup> si quis <sc. fuerit> tempore mortis mee, vi.s. viii.d., ut celebret pro me vii. missas cum officio mortuorum. Item capellano parochie de Wllesthorp<sup>34</sup> iii.s. iii.d.; item  
 175 capellano parochie de Redmyld<sup>35</sup> iii.s. iii.d., capellano parochie de Maston<sup>36</sup> iii.s. iii.d., capellano de Hareston<sup>37</sup> iii.s. iii.d., capellano de Knypton<sup>38</sup> iii.s. iii.d., capellano parochie de Braunston<sup>39</sup> iii.s. iv.d., capellano de Herdeby<sup>40</sup> iii.s. iii.d., capellano de Stathern<sup>41</sup> iii.s. iii.d.; item vicario de Howys<sup>42</sup> iii.s. iii.d.; item vicario de Plungar<sup>43</sup> iii.s. iii.d., vicario de Barston<sup>44</sup> iii.s. iii.d. et capellano de Botels-  
 180 ford<sup>45</sup> iii.s. iii.d.;<sup>46</sup> ut quilibet eorum celebret pro anima mea vii. missas cum officio mortuorum, sicut supra inponitur capellano parochie de Beluero. Item lego Johanni de Norton<sup>47</sup> xxvi.s. viii.d. Item volo quod executores mei cuilibet de familia secundum gradum cuiuslibet ac secundum magis vel minus michi deser-  
 185 uerit remunerent competenter ultra summam pro salario suo debitam. Item lego cuilibet pauperi in hospicio beate Marie Leycestrie<sup>48</sup> iii.d. Item cuilibet in hospicio sancti Johannis eiusdem ville<sup>49</sup> vi.d. Item cuilibet tenenti cotagium in villa de Cosby<sup>50</sup> tempore mortis mee xii.d. Item lego cuilibet in domo sancte Katherine extra Lincoln, vocato domo pauperum,<sup>51</sup> xii.d. Item volo et precipio quod liber Hostiencis in Summa<sup>52</sup> restituatur abbati de Osney,<sup>53</sup> quia non fuit relictus michi

<sup>33</sup> See p. 143 n. 29 above.

<sup>34</sup> Woolsthorpe, Lincs.

<sup>35</sup> See p. 143 n. 30 above.

<sup>36</sup> In context, more likely Muston Leics. than Marston Lincs.

<sup>37</sup> Harston, Leics.

<sup>38</sup> Knypton, Leics.

<sup>39</sup> Branston, Leics.

<sup>40</sup> Harby, Leics.

<sup>41</sup> Stathern, Leics.

<sup>42</sup> Hose, Leics.

<sup>43</sup> Plungar, Leics.

<sup>44</sup> Barkestone, Leics.

<sup>45</sup> Bottesford, Leics.

<sup>46</sup> In the preceding series of bequests the word *item* is written with an initial capital letter, but clearly they are all subject to the stipulation that follows.

<sup>47</sup> A John de Norton, an unbeneficed chaplain wearing the habit, is listed among the clergy of Lincoln cathedral in 1377. See A. K. McHardy, *Clerical Poll-Taxes of the Diocese of Lincoln 1377-1381*, Lincoln Record Society 81 (Woodbridge, Suffolk, 1992), 2, no. 5. It is, however, not clear whether the legatee here is a clerk.

<sup>48</sup> The hospital of the Annunciation of St. Mary in the Newark, Leicester.

<sup>49</sup> The hospital of St. John the Baptist and St. John the Evangelist, in the parish of All Saints, Leicester.

<sup>50</sup> Leics.

<sup>51</sup> The hospital of St. Sepulchre and of SS. James and Katherine, Lincoln.

<sup>52</sup> Henry of Susa (Hostiensis), *Summa Aurea*.

<sup>53</sup> Osney, O.S.A., Oxon.

190 nisi ad tempus vite mee et post dicte abbathie restituendus.<sup>54</sup> Item volo quod liber  
 decretorum qui ligatur sine tabulis, correo, vendatur et precium eius <sc. distri-  
 buatur> inter pauperes moniales et alios religiosos pauperes, non inter fratres,  
 pro anima magistri Willemi de Downe quia libri sunt sui, vel alias restituantur  
 abbathie de Osney ut vendantur et precium eius distribuatur pro anima Willemi  
 195 predicti. Mallem tamen hoc fieri per executores meos ut dictum est. Item lego  
 xxvi.s. viii.d. ad distribuendos inter pauperes de Beluero,<sup>55</sup> secundum magis vel  
 minus, prout magis videantur indigere, et hoc infra quatuor dies post mortem  
 meam. Item xx.s. inter pauperes de Kyrkeby Malerey.<sup>56</sup> Item priori de Markeby<sup>57</sup>  
 et conventui eiusdem xxvi.s. viii.d., ut ipsi celebrent pro me sub modo et forma illis  
 200 de Croxton' superius inpositis.

Item volo et precipio quod omnia debita mea in quibus alicui teneor aliquo vin-  
 culo equitatis fideliter persolvantur. Item volo quod fiat publica proclamacio in  
 quolibet decanatu archidiaconatus Leycestre quod si aliquis possit probare ex bona  
 fide quod aliquid recepi iniuste ab eo quod eidem restituatur. Item lego in emen-  
 205 dacionem debilium cantariarum in ecclesia Linc' fundatarum quarum capellano-  
 rum consistit salarium intra v. marcas et sex marcas, videlicet cantarie domini  
 Ricardi de Stretton' et duabus cantariis Willemi de le Gare et cantariis duabus  
 Ricardi de Faldyngworth', xxv. libras, videlicet cuilibet capellano dictarum canta-  
 riarum per decem annos post mortem meam immediate sequentes xiii.s. iiii.d., ita  
 210 quod quilibet capellanus dictarum cantariarum singulis diebus per dictos decem  
 annos unam col<l>ectam pro anima mea habeat specialem cum secreto et post-  
 communionem, quam peccuniam poni volo per executores meos in custodia  
 sacriste et succentoris ecclesie Lincoln' in una cista, per eosdem dictis capellanis in  
 festo sancti Michaelis vel infra septimanam proxime sequentem porcionaliter  
 215 prout supra disponitur liberandam et hoc per visum senioris canonici in ecclesia  
 Lincoln' residentis. Et si dicte cantarie tempore mortis mee non fuerint oc<c>u-  
 pate, tunc volo quod dicta peccunia distribuatur inter capellanos aliarum canta-  
 riarum magis debilium in ecclesia Lincoln' fundatarum, per eosdem sacristam et  
 succentorem, modo et forma superius expressatis, cum onere dicendi collectam,  
 220 secretum et postcommunionem ut supra scribitur. Item lego priori et conventui de  
 Bevall',<sup>58</sup> ordinis Cartusiensis, v. marcas, ut me in memoriis eorum habeant spe-

191 correo corrected by expunction from correo

191, 194 precium] precipium MS

<sup>54</sup> See A. H. Thompson, "The Will of Master William Doune, Archdeacon of Leicester,"  
*The Archaeological Journal* 72 (1915): 283.

<sup>55</sup> See p. 143 n. 29 above.

<sup>56</sup> See p. 143 n. 32 above.

<sup>57</sup> Markby, O.S.A., Lincs.

<sup>58</sup> Beauvale, O.Cart., Notts.

- cialiter quamdiu eis placuerit. Item lego domino Wilhelmo Stapulford, capellano, rectori ecclesie de Wykenby,<sup>59</sup> unum ciphum de argento coopertum. Item lego unum ewer argenti et deauratum magno altari prioratus de Beluero ad deservien-
- 225 dum ibidem inperpetuum. Item lego c. marcas argenti ad distribuendum pro anima magistri Wilhelmi Downe in archidiaconatu Leycestrie, videlicet xx. libras in refeccione debilium ecclesiarum archidiaconatus predicti, xx. libras pro vestimentis claudorum pauperum et debilium predicti archidiaconatus, xx. marcas ad distri-
- 230 buendum inter domos religiosorum possessionatorum, non mendicantium, magis indigencium. Et volo et precipio quod hec divisio non fiat per aliquam affectionem singularem set habito fidei respectu ad indigenciam locorum et personarum. Item lego Johanni, camerario meo, xx.s. Item lego ad faciendum depingi ymaginem et tumbam parvi Hugonis in ecclesia Lincoln' xl. Item pauperibus parochie de Caletton' super Ottemore<sup>60</sup> xl.s. Item volo quod solvantur executoribus domini
- 235 Radulphi de Beluero, nuper vicarii in ecclesia Lincoln', c.s., nisi aliquid / fol. 43r / voluerint michi gratis remittere. Item executoribus domini Roberti Bolyngbroke,<sup>61</sup> nuper clerici fabrice ecclesie Linc', xxvi.s. viii.d. Item executoribus domini Roberti de Beluero x.s. Item volo, lego et dispono quod singulis diebus veneris per vii. annos post mortem meam immediate sequentes quinque denarii distribuuntur
- 240 pauperibus apud Beu' pro anima mea et animabus eorum quibus sum astrictus, per Thomam, fratrem meum infra nominatum, si tanto tempore vixerit, et si tanto tempore non vixerit, volo quod pro residuo temporis non completo residuum pecunie non distributum persolvatur priori de Beluero qui pro tempore fuerit pro dicto usu complendo, et quod huiusmodi distribucio fiat in ecclesia parochiali de
- 245 Beluero singulis diebus veneris ut predicitur et maxime pauperibus viduis eiusdem ville. Item volo quod hec ultima dispositio mea intimetur pauperibus dicte ville. Item volo quod distribuuntur xl.s. inter pauperes parochie de Kyrketon'<sup>62</sup> et Wel-
- 250 ton'.<sup>63</sup> Item lego et dispono quod residuum omnium bonorum meorum non legatorum distribuuntur inter pauperes et miserabiles personas, videlicet de Beu', Willesthorp',<sup>64</sup> Barston'<sup>65</sup> et Muston',<sup>66</sup> quibus dictis executoribus meis magis expediens pro salute anime mee videbitur expedire. Et volo quod hec omnia infra annum post decessum meum expediantur, tempore superius limitato per hanc

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233 xl.] *sc. presumably solidos*

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<sup>59</sup> Wickenby, Lincs.

<sup>60</sup> Charlton on Otmoor, Oxon.

<sup>61</sup> A Robert de Bolingbrok is listed in 1377 under the church of Spilsby. See McHardy, *Clerical Poll-Taxes*, 35, no. 487.

<sup>62</sup> Kirton in Lindsey, Lincs.

<sup>63</sup> Welton, Lincs.

<sup>64</sup> (?)Woolsthorpe; see p. 144 n. 34 above.

<sup>65</sup> See p. 144 n. 44 above.

<sup>66</sup> Leics.; see p. 144 n. 36 above.

limitacionem minime exstricto. Et volo et ordino quod executores mei in vendendo  
res meas dilacionem solucionis precii non concedant, set si quis rem habere  
255 voluerit, precium solvat de quo conventum fuerit inter ipsos executores et empto-  
rem antequam rem habeat liberatam.

Et ad istam voluntatem meam perficiendam et adimplendam constituo executo-  
res meos in omnibus et singulis prout per me ordinatur quatinus est eis possibile  
faciant et perficiant in periculo animarum suarum, videlicet dominum Willelmum  
260 Stopelford, rectorem ecclesie de Wykenby,<sup>67</sup> magistrum Johannem Keele, recto-  
rem ecclesie de Gernthorp<sup>68</sup> et dominum Willelmum Gretwell,<sup>69</sup> capellanium  
cantarie de Burgherssh,<sup>70</sup> ut ipsi per consilium venerabilis viri magistri Petri de  
Dalton', thesaurarii ecclesie Lincoln',<sup>71</sup> disponant in premissis arduis ubi iuris  
ambiguitas vertitur seu verti rationabiliter poterit. Si qua fuerit in presenti testa-  
265 mento obscuritas, volo quod per dictos executores meos seu per duos eorundem  
una cum consilio dicti magistri Petri declaretur, in periculo animarum suarum,  
prout coram Deo voluerint respondere. Item lego cuilibet executorum meorum de  
tribus superius nominatis quadraginta solidos ultra expensas rationabiles per eos  
factas et predicto venerabili viro meliorem ciphum argenteum cum coopertorio  
270 quem eligere voluerit, sic quod in nullo voluntas mea superius re<c>itata per ali-  
quem impediatur et nulla disposita in testamento per dictum dominum Petrum

*Irish Manuscripts Commission, Dublin.*

263 ecclesie] ecclesie MS      270 recitata] resitata MS      271 Petrum] *the registration*  
*thus ends abruptly with a sign which may be for et cetera.*

<sup>67</sup> See p. 143 n. 31 and p. 146 n. 59 above.

<sup>68</sup> Grainthorpe, Lincs.

<sup>69</sup> William de Gretwell was listed in 1377 among the clergy of the cathedral close "neither wearing the habit nor beneficed" (see McHardy, *Clerical Poll-Taxes*, 2, no. 8). On 16 December 1390 he had collation of the prebend Centum Solidorum in Lincoln cathedral (Le Neve, *Fasti: Lincoln*, ed. King, 51). After John de Belvoir's death, he succeeded him in the prebend of St. Botolph (ibid., 38).

<sup>70</sup> In Lincoln cathedral.

<sup>71</sup> For an outline of his career, see Emden, *Biographical Register* 2:1352-53. Cf. p. 126 n. 42 above.

“I HAVE ORDEYNED AND MAKE MY TESTAMENT  
AND LAST WYLLE IN THIS FORME”:  
ENGLISH AS A TESTAMENTARY LANGUAGE, 1387–1450\*

*Timothy S. Haskett*

ON 16 October 1438, Anne, countess of Stafford, the eldest daughter of Thomas Plantagenet and granddaughter of Edward III, widow of both the third and fifth earls of Stafford as well as the count of Eu, directed the writing of her testament, “in Englisshe tonge for my most profit, redyng and undirstandyng.”<sup>1</sup> Her choice of language was unusual for the time but certainly not novel, for English had seen increasing use in the writing of wills for half a century before Anne made her *post obitum* arrangements; over the remainder of the fifteenth century English would become more and more popular as a testamentary language. The concern of this essay is with the formative stage of this process, from 1387 to 1450, when the usual languages of bequest—Latin and, to a lesser extent, French—were joined by English. Two questions form the focus of the inquiry: What can an analysis of diplomatic and language indicate specifically about the purposes and frequency of the use of English in wills in this period? What can be determined more generally about the relationship of the emergence of English as a testamentary language to social and economic rank, to the testamentary perceptions and abilities of men and women, and to what is presently known of the rise of English in the later Middle Ages?

Each will displays a twofold character. First, it is a formal, legal instrument, like a deed or a charter. Its form, formulae, and vocabulary are of importance, for it must function—indeed, can only function—in the per-

\* From the will of Joan Beauchamp, lady of Abergavenny (see note 1 below). I would like to thank Leonard E. Boyle, O.P., and A. G. Rigg for advice in the preparation of this essay. Any and all remaining errors are, despite their best efforts, to be considered my testament alone. Special thanks is due to the late Michael M. Sheehan, C.S.B., under whose kind and precise guidance I first encountered not only the ecclesiastical courts of medieval England but the whole realm of medieval studies. To him is this small effort respectfully and fondly dedicated.

<sup>1</sup> All of the English-language testators referred to in this essay may be found, arranged in alphabetical order and with appurtenant information, in the Appendix, at the beginning of which is a full list of the sources used.

manent absence of the person who composed it.<sup>2</sup> It has to be legally sufficient in all respects, for there is—beyond reliance on the discretion of the probate court and the assistance of executors—little the testator may do to help when the time comes for it to take effect. If it was to succeed under probate in the ecclesiastical courts, the English-language will had to display form and formulae akin to its Latin progenitors, and in this it succeeded admirably. Second, a will is a personal record, like a letter. In the course of directing the bestowal of their most treasured possessions, of making arrangements for the aid of their own souls, and of seeing to the welfare of those closest to them, testators regularly offer the researcher, as an unintended reader, valuable insights into their lives. Taken together, these two qualities of the will permit us, in focussing on the earliest wills written in English, to ask why this language was chosen, to see who chose it and how often the choice was made, to inquire into the process of the making of the English will and into the question of who actually wrote the document, and to examine the form of the English will and its relationship to its Latin model.

It is important to be clear about the terms employed in this essay. "Will" is used in a general manner, to describe all *post obitum* arrangements made by a person or persons in written form; "a will" thus includes any and all of the instruments produced by a testator. These instruments themselves are of two main types—the testament and the last will—which developed over centuries in their Latin forms, formulae, and vocabulary. The form of the Latin testament—the part of the will that normally dealt with goods and chattels and money—was well established by the end of the fourteenth century.<sup>3</sup> It begins with an invocation, usually to the Trinity, but sometimes including various saints. This is followed by the name of the testator and perhaps his title and then the date, although this latter element might well be found at the end of the document instead. Next comes a description of the document, normally as a *testamentum*, although other terms do appear, sometimes in combination.<sup>4</sup> The testator then commends

<sup>2</sup> See the note to the entry for John Broun in the Appendix (n. 128 below) for an example of an unusual departure from this convention.

<sup>3</sup> Michael M. Sheehan, *The Will in Medieval England from the Conversion of the Anglo-Saxons to the End of the Thirteenth Century*, Studies and Texts 6 (Toronto, 1963), 192.

<sup>4</sup> The writers and composers of the instruments were not always concerned that the terms of description be exact, although the form and the content of the two main types of document—testament and last will—are consistently differentiated. Thus a document may describe itself as a testament of/and/concerning/including/containing a last will. In this essay form and content are used to determine the proper description of an instrument. The term "codicil," used regularly in the probate registers to describe a document ancillary to either of the two main instruments of the will, has been adopted here for the same purpose.

his soul, usually to God, to the Blessed Virgin, to various saints, or to a combination of these, and then his body, usually for burial in a specified place. With these necessary formalities completed, the mundane legacies can begin, usually with exequies. Next comes the bulk of the legacies, which can include practically every item imaginable and bequeath them to all manner of people, from close relatives to the undifferentiated poor. The following section deals with any residue that might be left after the specific bequests have been fulfilled, usually directing it towards the payment of debts, to charities and to other general uses. Vitally important to the proper functioning of the will, there follows the appointment of executors, and the testament concludes with a dating clause if such has not been inserted at the beginning—occasionally there is a duplication—and the sealing, or signing, and witnessing of the instrument. Minor variations to this form of course appear continually, but on the whole, most Latin testaments follow the pattern closely.

The Latin form of the last will never really maintained a consistent pattern, although it is easily distinguishable from the testament. What generally identifies the last will is both a lack of protocol and eschatocol—invocation, commendations, exequies, appointment of executors—and its preoccupation with real property, especially with the working of *enfeoffments to use*, although this latter characteristic by no means prevents the inclusion of instructions pertaining to goods and chattels, to money, or to anything else that might be found in a testament. *Enfeoffment to use* was a means whereby the landowner could avoid the rule in English law which prohibited wills of land. A device which became immensely popular in the fifteenth century, the landowner would vest his land in trusted persons—his *feoffees*—in order to perform his intention, which he could convey to them by instruction, either oral or written, during his lifetime, or by last will after his death. To be of full utility to the landowner, the *enfeoffment* could have no condition specified at the time of its creation, for such would mean that the right heir would be the only person who could enter for breach, and usually the very purpose of the use was to convey the property to someone other than the heir. Widows, daughters, younger sons, other family members, and people outside the family were often the beneficiaries of *enfeoffments to use*. With no expressed condition, the *feoffees* held the land as a trust to the use of the *feoffor*, and it is the *feoffor's* instruction to his *feoffees* that we so often see in the last will. Through the use the landowner achieved the ability to dispose of real property either *inter vivos* or by last will, as suited him best.<sup>5</sup>

<sup>5</sup> On the use, the best brief, modern discussion is J. H. Baker, *An Introduction to English Legal History*, 3d ed. (London, 1990), chap. 14, "Real Property: Feudalism and Uses," 283–95.

This essay makes use of the wills of 101 testators, written wholly or partly in English prior to 1451, taken primarily from the records of two ecclesiastical jurisdictions, Canterbury and London. The selection is designed to provide representation from one diocese with a generally rural character, and another with a major urban population, yet still in the same geographical area of southeast England. The additional prerogative jurisdiction which allowed Canterbury wider control over wills than would be found in a diocese adds a particularly useful group of wills to the sample. One small and—in comparison to the Canterbury and London sources—anomalous group of four testators from Durham has been added because it provides first of all a useful, although only indicative, comparison to the two larger samples; second, among the four testators are two women who present especially interesting wills; third, analysis of the entire corpus of wills from this Durham register provides a good comparison for a similar approach which will be taken with the Canterbury prerogative wills. The sources used, therefore, represent a sample, not a complete inventory of all such extant instruments, yet an analysis based upon this sample is able to achieve two things: it delineates a general area of study, presenting a type of record and a new methodological analysis which combines diplomatic, language, and social history; it advances conclusions that are secure in their substantive aspect and indicative in their statistical suggestions.

One artificial collection of English wills does exist: just over a century ago Frederick Furnivall produced for the Early English Text Society *The Fifty Earliest English Wills in the Court of Probate, London*.<sup>6</sup> It is a strange little volume, commendable for searching out some records yet remarkably lax for its time in both editorial and analytical standards.<sup>7</sup> Some care needs

There was, of course, a serious drawback to the use. The trust that had to be relied upon in order to evade these common-law limitations on conditional enfeoffment—that is, the limitation of remedy to the heir alone—meant that should the feoffees choose to break the trust and turn the property to their own advantage, ignoring the wishes of their feoffor, neither the feoffor himself nor any beneficiary could have a common-law remedy. The attractiveness of the use, however, demanded some means of enforcement and it is this that is largely responsible for the growth of the Court of Chancery in the fifteenth century. The chancellor would grant remedy against such breach of trust on the basis of the demands of conscience. For a particularly good example of the manipulation of a use by means of a last will, see pp. 184–85 below (Edward Tyrell).

<sup>6</sup> See the Appendix: "Sources and Abbreviations," s.v. *EEW*.

<sup>7</sup> While an interesting witness to an aspect of late nineteenth-century English society, at least one of Furnivall's prefatory remarks ought to arrest the attention of any scholar, then as now: "But the most surprizing and regrettable thing in these Wills is the amount of money shown to hav been wasted in vain prayers, or orders for them. Fancy one man ordering a Million Masses to be said for his soul; another 10,000; another 4,400; another sending Pilgrims to Spain, Rome, Jerusalem, &c. for the good of his soul! I only hope some sensible Executors handed over the money to the Testators' wives and children, or the poor" (*EEW*, xii). At the very least, his

to be taken when using it. Nonetheless, Furnivall's claim to finding the earliest English will remains good. Robert Corn, citizen of London, made his will on 8 August 1387; the remaining forty-nine wills in the collection are dispersed through 1440. The documents were taken from two sources. The London Bishops' Commissary Court Registers, now in the Guildhall Library, London, yielded twenty-seven testators, which together constitute one group in this present study.<sup>8</sup> In the Prerogative Court of Canterbury Probate Registers, now in the Public Record Office, London, Furnivall found and edited twenty-three examples,<sup>9</sup> and two of the Canterbury probate registers he used have provided sixteen further testators which he noted but did not edit, for a group of thirty-nine.<sup>10</sup> From the registers of the three archbishops of Canterbury in our period—Thomas Arundel (1396–1414), Henry Chichele (1414–43), and John Stafford (1443–52)—comes a third group, this time of thirty-one testators.<sup>11</sup> The register of Thomas Langley, bishop of Durham (1406–37),<sup>12</sup> has provided four testa-

sense of the binding nature of testamentary instructions is somewhat flawed.

<sup>8</sup> See the Appendix: "Sources and Abbreviations," s.v. *Reg. Courteney*, *Reg. Brown*, *Reg. More*. An important guide to the use of these records is Marc Fitch, *Index to Testamentary Records in the Commissary Court of London (London Division) Now Preserved in the Guildhall Library, London*, vol. 1: 1374–1488 (London, 1969).

<sup>9</sup> See the Appendix: "Sources and Abbreviations," s.v. *Reg. Rous*, *Reg. Marche*, *Reg. Luffenham*. Of use is J. Challenor C. Smith, *Index of Wills Proved in the Prerogative Court of Canterbury, 1383–1558, and Now Preserved in the Principal Probate Registry, Somerset House, London*, 2 vols. (London, 1893–95; rpt. Nendeln, 1968).

<sup>10</sup> *Reg. Rous* has yielded four additional wills used in this study, from between 1437 and 1450, and *Reg. Luffenham* twelve, from 1442 to 1447. Save for one example, Furnivall did not edit any English-language wills beyond 1439.

<sup>11</sup> See the Appendix: "Sources and Abbreviations," s.v. *Reg. Arundel*, *Reg. Chichele*, *Reg. Stafford*. The distinction between these bishops' registers and the probate registers just discussed can be a difficult one to explain. Irene Josephine Churchill, in *Canterbury Administration: The Administrative Machinery of the Archbishopric of Canterbury Illustrated from Original Records*, 2 vols. (London, 1933), 1:419–20, remarked that early testaments proved under the prerogative are scattered through the bishops' bound registers up to Langham's time (1366–68), while from his time to the tenure of Sudbury (1375–81) they were gathered into one section and set off by a distinctive heading. From Courteney's time (1381–96) there are also other registers devoted almost exclusively to the enrolment of testaments proved by prerogative; our *Reg. Rous*, *Reg. Marche*, and *Reg. Luffenham* are the first three of this series. These early volumes, up to Bourghier (1454–86), contain testaments proved before commissaries general, while those from Bourghier to Warham (1503–32) consist of probates before the archbishop at Lambeth or at his other residences. As for the modern separation of these two series, one at Lambeth and the other now at the Public Record Office via Somerset House, Churchill makes the following observation: "there is nothing in the form in which these registers have come down to us to suggest otherwise than that they represent one series originally in one custody, divided up in process of binding, no doubt for practical reasons, but representing nevertheless the activities of one paramount authority, acting through various delegates" (1:420).

<sup>12</sup> See the Appendix: "Sources and Abbreviations," s.v. *Reg. Langley*.

tors, from between 1418 and 1429. A brief survey may be made of the various types of testators in each of the four groups.

Of the twenty-seven testators from the London Commissary Court records, seven are known by no more than their names, while a further three provide only their names and a rural residence.<sup>13</sup> The remaining seventeen tell a bit more about their rank and occupation. Four women represented in this group describe themselves as widows: one gives no further information, but the title in the probate register identifies her residence as a London parish, while another is associated with a Middlesex town by a marginal entry; one may well be remarried, and another specifies that her late husband was a citizen of London.<sup>14</sup> And London is, not surprisingly, the descriptive element for twelve of the thirteen men of the group. Ten state their occupations (brewer, cook, cordwainer, draper, fishmonger, grocer, jeweller, maltman, vintner, waxchandler),<sup>15</sup> seven of them adding that they are citizens of the city and three that they are simply "of London." One notes that he is a citizen, with no occupation given, while one more draws on a city link, describing himself as a former servant of a waxchandler of London.<sup>16</sup> The sole exception to the explicit Londoners is John Broun, of the king's chamber. Nearly all, then, of the English-language testators in the London records who provide some description of themselves beyond their name are from the middle ranks of urban society.<sup>17</sup> Despite understandable pride in his title, work in the king's

<sup>13</sup> Fitzharry, Gray, Newland, Rogerysson, Roos, Sandwyk, Schapman; Borton, Girdeler, Heth.

<sup>14</sup> Chirche; Gregory; Asshcombe; Dove.

<sup>15</sup> Yong; Mangeard; Averay; Barnet; Dauby; Graweley; Pyncheon; Plot; Toker; Whyteman.

<sup>16</sup> Corn; Elmesley.

<sup>17</sup> It is important to be clear about the terms used in this essay to describe social and economic rank, for researchers select different categories and provide varying definitions of those categories, depending upon the type of records they are using and the various purposes of their investigations. For present purposes only two, broad distinctions have been drawn and they are only applied when the will, or another source, provides a description of the testator that is sufficient to allow classification. First, a testator may be identified as belonging to the nobility—earls, dukes, and countesses, usually—and thus described as being from the higher ranks of society; alternatively, he or she may come from a much larger group—below the nobility but well above the peasantry, small farmers, minor artisans, labourers, and the like, who but rarely produce wills that are extant—and these testators, often referred to as the gentry, are here described as being from the middle ranks of society. Second, while testators of the higher ranks of society are, because of their extensive landed wealth, considered to be rural in their economic base, for those of the middle ranks an important division can be made between those who, like their wealthier and more powerful cousins, find their main economic and social activity in a rural or country context ("rural" and "country" are used interchangeably)—knights and esquires, and their wives and widows, for the most part—and those whose world is largely an urban one—usually citizens and/or members of various occupations. This distinction in the middle ranks allows an assess-

chamber probably cannot qualify Broun for consideration in the higher social ranks. The proportion of women is significant, at 15% of the whole group, perhaps reflecting their activity in the mercantile and artisan affairs of the city.

Among the thirty-nine testators from the Prerogative Court of Canterbury Probate Registers, four provide only their names; six more add only a rural residence.<sup>18</sup> Among the rest there is, of course, a much reduced London contingent of four examples, two indicating their occupation and residence, a third indicating his occupation and specifying that he is a citizen of London, and a fourth giving a more extensive description, as esquire, citizen of London, and surgeon.<sup>19</sup> One other city is represented, Bristol, with two testators, one specifically a merchant.<sup>20</sup> These six may be added to a larger group, also representing the middle ranks of English society: ten esquires, six knights, two gentlemen, and two ladies, both widows.<sup>21</sup> The rural contingent clearly outnumbers the urban, but together these groups representing the middle ranks constitute 90% of the twenty-nine testators for whom we know more than just name and residence. The remaining testators are those of high rank, one earl and one baron of the Exchequer, along with the remaining woman in the group, a widowed countess.<sup>22</sup> The middle ranks of society clearly predominate among these English-language testators, these three from the higher levels constituting but 10% of the twenty-nine. The proportion of women in the entire group of thirty-nine is much reduced from the London contingent, and two of the three are from the middle ranks of society. This might be taken to indicate both competence with and preference for the language among women especially of this social level, yet the small sample renders such a suggestion only tentative. The social profile of the whole group of 101 testators will be assessed shortly.

Of the three registers of archbishops of Canterbury which provide English-language testators, the entire corpus of 308 probate entries in the Chichele register—Latin, French, and English—provides useful con-

ment to be made of the effect that urban life had upon the main questions of this study. The division into higher and middle ranks, nobility and gentry, follows for the most part the distinctions drawn by K. B. McFarlane, *The Nobility of Later Medieval England* (Oxford, 1973), and N. Denholm-Young, *The Country Gentry in the Fourteenth Century* (Oxford, 1969).

<sup>18</sup> Hotoft, Newent, Shipley, Throkmarton; Broke, Burton, Flore, Olney, Solas, Thomas.

<sup>19</sup> Kettrych, Saykyn; Charleton; Morstede.

<sup>20</sup> Bathe; Leveden.

<sup>21</sup> Alred, Bokeland, Chelmyswyk, Credy, Dixton, Hanyngfeld, Tvoky, Richard Tyrell, Walwayn, Wynter; Brook, Lowes, Langeford, Walter Lucy, Rochefort, Salwayn; Malton, Whaplod; West, Peryne Clanbowe.

<sup>22</sup> Richard Beauchamp; Babthorpe; Warwick.

textual information for its English wills. The Canterbury jurisdiction represented in the register provides an unusual and extensive group of testators. It is important at the outset to understand the nature of the group of people whose wills were proved in the archbishop's court. Although some wills found themselves there as a result of the same sort of diocesan jurisdiction that brought the wills of Londoners, or of those with property in the city, into the ecclesiastical courts of that diocese, the metropolitan jurisdiction of Canterbury brought a great number of other wills before the archbishop and his officials. From Canterbury's diocesan jurisdiction came the wills of laymen and clerics of the city and diocese of Canterbury, although normally the archdeacon's court rather than the archbishop's would prove these. Also from this source came the wills from the exempt parishes within the archbishop's collation and from his peculiars.<sup>23</sup> From the prerogative jurisdiction, with the probate annotation *de prerogativa* or *ratione prerogative ecclesie sue Cantuariensis*, came the wills of testators who died during a metropolitan visitation, as well as wills to be proved while a suffragan see was vacant; the latter applied even if an archidiaconal court was still functioning in that diocese.<sup>24</sup> There was one further area of jurisdiction that produced a few wills—the war wills proved during the archbishop's visits to France.<sup>25</sup> The prerogative wills make up the largest proportion of those in the register, and the probate entries of many of these have the added explanation that the deceased person possessed *bona notabilia*, that is, goods of value greater than £10 dispersed throughout different dioceses of the province.<sup>26</sup> The claim to prove such wills was an attempt by Canterbury to simplify administration where several diocesan jurisdictions might be involved because of the extent of the wealth of some testators.

There was, thus, a number of areas from which wills might come to the archbishop's court. But those proved in this forum were a select group in that they were to a degree chosen by the court, especially in the prerogative cases. If the court did not take action to secure the proof of such wills, then they would be proved as a matter of course in the various diocesan jurisdictions. In the *bona notabilia* cases it appears that the archbishop and his staff were very quick to ascertain the death of people possessed of such wealth, although it is unclear exactly which officials may have been

<sup>23</sup> *Reg. Chichele* 2:x.

<sup>24</sup> *Reg. Chichele* 2:ix.

<sup>25</sup> *Reg. Chichele* 2:x. See E. F. Jacob, *Archibishop Henry Chichele* (London, 1967), 111–16, for a chronology of Chichele's life and work, which notes both his several visits to France and his visitations.

<sup>26</sup> *Reg. Chichele* 2:x.

responsible for this task.<sup>27</sup> Moreover, it appears that in Chichele's register the term *coram domino* in probate notices did indeed mean that Chichele often heard the case in person and while this cannot be taken to apply in every case, E. F. Jacob does suggest that "there are strong grounds for believing that he took a very considerable share in the work of the Prerogative."<sup>28</sup> Thus it may be said that the register is largely—and especially in the prerogative cases—the record of the chosen few, some of whom are there simply because of their great wealth and importance, such as Edward Plantagenet, duke of York,<sup>29</sup> and some, such as William Chichele, citizen and grocer of London, more likely because he was the elder brother of the archbishop.

There are 308 testators represented in the Chichele register.<sup>30</sup> The fifteen who use English for some or all of their *post obitum* arrangements represent but 4.9% of the whole. There are a further thirteen who use French (4.2%),<sup>31</sup> and thus over 90% remain with the more conventional Latin format. Of the English-language testators six were proved either *ratione prerogative* or because of *bona notabilia*, or both,<sup>32</sup> and one because of a vacancy at Lincoln.<sup>33</sup> Of the remainder, four do not mention specific reasons for the probate, implying diocesan rather than prerogative jurisdiction,<sup>34</sup> and four have no note of probate at all,<sup>35</sup> but by that very reason may probably be included among those arising from diocesan jurisdiction, as anything touching the prerogative would be more likely to generate an entry.

The type of testator varies widely in the register as a whole, as can be indicated in a brief list of the self-descriptions in the Latin wills. There are bachelors and doctors of law, rectors, farmers, nail-makers, a baron of the Exchequer, bishops, dukes, merchants, esquires, knights, king's sergeants, vicars, clerks, a physician, sheriffs, canons, archdeacons, citizens of several cities and towns, widows and wives of knights, widows of barons, other wid-

<sup>27</sup> *Reg. Chichele* 2:xxv. Jacob suggests that it would have been either the Keeper of the Prerogative or the Apparitor-General. An interesting example is found in the will of Giles Daubeney. He died within a few days of 11 January 1446, and Archbishop Stafford's letter claiming jurisdiction because of *bona notabilia* is dated 15 January.

<sup>28</sup> *Reg. Chichele* 2:xxviii.

<sup>29</sup> *Reg. Chichele* 2:63-66, in French.

<sup>30</sup> Only those people for whom the register provides a testamentary instrument are included in this total; intestates and sole acquittances have been excluded.

<sup>31</sup> See n. 56 below for a list of these testators.

<sup>32</sup> Braybrooke, Cheyne, Clinton, Erpyngham, Pevere, Poyninges.

<sup>33</sup> Mulsho.

<sup>34</sup> Arundel, Joan Beauchamp, Radclyf, Sutton.

<sup>35</sup> Chichele, Halsham, Stafford, Tyrell.

ows, lords, tax collectors, scholars, justices, chaplains, tradesmen, ladies, precentors, sheep farmers, earls, gentlemen, countesses, masters of colleges, and shopkeepers. But while the type of testator is varied, the majority are of the middle and higher ranks of society, with many esquires, knights, lords, and ladies. This distribution is reflected in the fifteen English-language testators, although without the ecclesiastics. One man provides nothing more than his name.<sup>36</sup> From the middle ranks of society there is the sole urban testator, a citizen and grocer of London,<sup>37</sup> five knights (of these one is also a privy councillor and marshal of England and another a J.P.<sup>38</sup>), two esquires (one also an escheator, sheriff, and M.P.<sup>39</sup>), as well as two others of mixed careers: escheator, verderer, alnager, M.P., and member of the royal retinue; escheator, sheriff, M.P., and J.P.<sup>40</sup> One of the three women of the fifteen is also found here, a widow.<sup>41</sup> Together, these eleven constitute 73% of the English-language testators in the register. From the high ranks of society come three testators, an earl and the other two women of the group, a countess and a lady, again, both widows.<sup>42</sup> The rank of women is thus the inverse of what was found for the Prerogative Court of Canterbury Registers, but once again the small size of the sample makes conclusions difficult to draw.

Arundel's register, preceding Chichele's, not surprisingly yields but four English-language testators. Nonetheless, distribution is similar to the Chichele testators, with three knights and one earl;<sup>43</sup> the middle ranks predominate. There are no female testators represented. The larger group of a dozen testators from Stafford's register also follows the pattern found in Chichele's. While three men provide insufficient information to indicate their rank,<sup>44</sup> there are three knights and one esquire along with one woman who is the widow of a knight.<sup>45</sup> The remainder consists of two men from urban centres—London and Bristol, with the former a grocer—and one from the higher ranks of society, a duke.<sup>46</sup> The final testator in Stafford's register is unique in the whole sample: he is the sole ecclesiastic, a

<sup>36</sup> Sutton.

<sup>37</sup> Chichele.

<sup>38</sup> Braybrooke, Halsham, Radclyf; Erpyngham; Poyninges.

<sup>39</sup> Cheyne; Edward Tyrell.

<sup>40</sup> Mulsho; Pevere.

<sup>41</sup> Clinton.

<sup>42</sup> Arundel; Stafford; Joan Beauchamp.

<sup>43</sup> Heron, Thomas Clanbowe, William Beauchamp; Thomas Holland.

<sup>44</sup> Bruges, Gildeford, Tolymonde.

<sup>45</sup> Daubeney, Neuton, Fenys; Mulso; Alianore Lucy.

<sup>46</sup> Marshall, Norton; John Holland.

priest.<sup>47</sup> Certainly, as was seen in the Chichele register, there is no shortage of churchmen whose wills appear in the registers, but both their office and their training predisposed them to produce Latin instruments. Perhaps it is no surprise that this one example of English-language usage comes right at the end of our period, in Walter Shirington's testament of 1448. He is clearly a man of some substance. The instrument was written at the manor of Bernes, which he may well have owned; he does refer in the document to his gentlemen and yeomen. Shirington looks to fellow ecclesiastics as executors, naming the dean of St. Paul's as well as a canon residencer, and is preoccupied with his exequies, which he sets forth in extreme detail. Ecclesiastical beneficiaries abound, and there are several provisions for education. His poor kin and godchildren are the preferred lay beneficiaries. Shirington was a man with considerable worldly interests and resources, and by mid-century he must have felt it no embarrassment or handicap to write his will in English. He also tells the reader that when the instrument was complete, he signed it: "subscribed withyn myn own hand my signe manuel." Including Shirington, the middle ranks provide eight out of nine of the identifiable English-language testators in Stafford's register.

The small group of four English-language testators found in Langley's Durham register provides an interesting comparison to the large number of London and Canterbury examples. Indeed, as with the Chichele register—a record contemporary with Langley—it is helpful to view these English-language instruments in the context of the other testamentary documents proved in the jurisdiction. Langley's register contains only twenty-three wills in all, their presence deriving from his diocesan probate jurisdiction over his own clergy and over the wills of laity within his borders. The wills cover the period from 1408 to 1436 and the four English-language examples constitute 17%, a sizable proportion. There are no French wills. Of the twenty-three testators, eight are clergy, all of whom produce Latin instruments.<sup>48</sup> Laity using this language include a former mayor and two burgesses of Newcastle upon Tyne, a baron and a knight, and five men and one woman offering no self-description beyond their names and sometimes their rural residences. The English-language testators consist of one man from Newcastle, a knight, and the other two

<sup>47</sup> Shirington.

<sup>48</sup> An archdeacon, a clerk, a dean, two vicars, two rectors, and one Master Thomas Walkyngton, rector, archdeacon, papal chaplain, and auditor of causes of the apostolic palace (this latter *Reg. Langley* 1:125–28).

female testators in the register, both of them widows and ladies.<sup>49</sup> All come from the middle ranks of society. The very small size of this group renders the finding that half of the English-language testators are women statistically insignificant, but a considerable female presence is in keeping with the information from the other, larger samples.

Despite the differences between the sources used, there is sufficient correlation between the types of testators in each to merit assessment of the social profile of the group of 101 English-language testators as a whole. There are twenty-four who present either just their name, or their name and a place of rural residence.<sup>50</sup> Of the remaining seventy-seven, one person is from the lower ranks of society and eight are from the higher.<sup>51</sup> In the middle are forty-five from the country middle ranks,<sup>52</sup> and twenty-three from the urban middle ranks, mostly from London.<sup>53</sup> Taken together, they constitute 88% of the seventy-seven English-language testators to whom a rank can be assigned; if country and urban elements are distinguished, the former is preponderant among the seventy-seven as a whole, at 58%, the latter at 30%. Testators of high rank contribute 10% of the seventy-seven. Once again, the Chichele register, with its 308 testators in Latin, French, and English, can be used for comparison: of the 255 who may be assigned a rank, the lower ranks constitute 3%, the middle ranks 75%, and the high ranks 22%. The differences between the percentages for the English-language testators and those for the entire corpus of Chichele testators are not extreme, but they are meaningful: it is among

<sup>49</sup> Thornton; Lumley; Bowes, Fitzhugh.

<sup>50</sup> See nn. 13, 18, 36, and 44 above.

<sup>51</sup> Former servant (Elmesley); three earls (Arundel, Richard Beauchamp, Thomas Holland), one lady (widow: Joan Beauchamp), two countesses (widows: Stafford, Warwick), one baron of the Exchequer (Babthorpe), one duke (John Holland).

<sup>52</sup> Thirteen esquires (Alred, Bokeland, Chelmyswyk, Cheyne, Credy, Dixon, Hanyngfeld, Mulso, Tvoky, Edward Tyrell, Richard Tyrell, Walwayn, Wynter); eighteen knights, some with additional descriptions (William Beauchamp, Braybrook, Brook, Thomas Clanbowe, Daubeney, Erpyngham, Fenys, Haksham, Heron, Lowes, Langford, Walter Lucy, Lumley, Neuton, Poyninges, Radclyf, Rochefort, Salwayn); one man of the king's chamber (Broun); two gentlemen (Malton, Whaplod); two men, both M.P.s along with a mixed series of county appointments (Mulsho, Pevere); one priest (Shirington); three widows (Asshcombe, Gregory, Alianore Lucy); five ladies (widows: Bowes, Peryne Clanbowe, Clinton, Fitzhugh, West).

<sup>53</sup> Six London tradesmen (Averay, Graweley, Ketrych, Marshall, Saykyn, Yong); eight tradesmen and citizens of London (Barnet, Charleton, Dauy, Mangeard, Plot, Pyncheon, Toker, Whyteman); one tradesman, citizen, and alderman of London (Chichele); one citizen of London and esquire (Morstede); one citizen of London (Corn); one widow of a London citizen (Dove); one widow resident in London (Chirche); one merchant of Bristol (Leveden); two residents of Bristol (Bathe, Norton); one resident of Newcastle (Thornton).

the middle levels of society that English is making the greatest advances as a testamentary language.

Once more, the presence of women among these English-language testators is significant: 17% of the seventy-seven to whom a rank can be assigned are female. The percentage of women is highest in the high ranks, at 38% (3 of 8), lower in the country middle ranks, at 18% (8 of 45), and women represent but 9% (2 of 23) of middle-rank urban testators. Of the whole sample of 101 English-language testators, women constitute 13%. Again, the Chichele register can be used to determine whether or not this percentage of women is unusually high. Of its 308 testators in any language, there are thirty-four women (11%), a proportion slightly lower than that just noted for women among all the English-language testators of this study (13%). Twenty-seven of these thirty-four women use Latin (79%) and four use French (12%), in addition to the three who produce English wills (9%). For the male testators among the 308 the percentages are 92.5% Latin, 3% French, and 4.5% English. The use of the vernacular is apparently more common among women, yet this is misleading, because 42% of the male testators of high and middle rank are clergy, who almost universally use Latin for their wills. It is of more use to assess the percentages of women within each language: 31% (4 of 13) of testators using French are women,<sup>54</sup> while women make up 20% (3 of 15) of English-language testators, compared with but 10% (27 of 280) of Latin testators.<sup>55</sup> Even if the clergy are removed from the total of Latin-language testators, women still contribute but 14.5% (27 of 186). So the relatively large number of women among the English-language testators is meaningful; the evidence of the Chichele register shows that the percentage of women among these testators is higher than the percentage of women testators overall, and the percentage of women using the two vernaculars (among women overall) is much higher than the percentage of men using the two vernaculars (among men overall).

It was mentioned at the outset that English was being used increasingly in wills over the first half of the fifteenth century. The progress of this development in London, Canterbury, and the broad sampling of the Canterbury prerogative jurisdiction may be shown convincingly by these main groups of the 101 testators.

<sup>54</sup> Other aspects of the use of French by the Chichele testators are discussed on pp. 162-63 below.

<sup>55</sup> Of these women Latin testators, twenty-three can be assigned a rank: 17.5% (4 of 23) are from the higher ranks, 78% (18 of 23) from the country middle ranks, and only 4.5% (1 of 23) from the urban middle ranks.

TABLE 1

## SOURCES AND DISTRIBUTION OF TESTATORS USING ENGLISH

	1387- 1390	1391- 1400	1401- 1410	1411- 1420	1421- 1430	1431- 1440	1441- 1450	TOTAL
Registers of the London Bishops' Commissary Court								
<i>Reg. Courteney</i>	1	1						2
<i>Reg. Brown</i>			3	2				5
<i>Reg. More</i>				2	8	10		20
Prerogative Court of Canterbury Probate Registers								
<i>Reg. Rous</i>		1				2	2	5
<i>Reg. Marche</i>				9	2			11
<i>Reg. Luffenam</i>					4	7	12	23
Registers of the Archbishops of Canterbury								
<i>Reg. Arundel</i>		1	3					4
<i>Reg. Chichele</i>				2	7	4	2	15
<i>Reg. Stafford</i>							12	12
<i>Reg. Langley</i>				1	3			4
TOTAL	1	3	6	16	24	23	28	101

A general increase in the use of English in wills is evident first of all in the total number of English-language testators for each successive time period, and if each of the larger groups is assessed separately, the finding is confirmed: the Canterbury archbishops' registers—Arundel, Chichele and Stafford—as a whole, the Canterbury prerogative registers—Rous, Marche and Luffenam—as a unified series, and the London commissary court registers—Courteney, Brown and More—together, each of these over their spans shows an overall increase in the use of English as a testamentary language.

The Chichele register provides some interesting comparative information about wills written in French, the prominent vernacular in the middle and higher ranks of English society over the previous two centuries. A

decline of French as a testamentary language is evident: there are nine examples from 1411 to 1420, three in the following ten years, and the presence of French in the register disappears entirely with the *testament* of Phillipa, duchess of York and lady of the Isle of Wight, written in 1431.<sup>56</sup> Of these thirteen testators, six are from the middle ranks of society: five knights and one widow of a knight. The remaining seven are of higher status, consisting of three dukes, an earl, two countesses, and a duchess, all three women being widows. If this is compared with the strong and growing presence of English-language testators of the middle ranks in the same register, it is evident that the use of French as a testamentary language remained strongest in the higher ranks, which accords with the general understanding of the strength of the language among the English nobility well into the fifteenth century. The percentage of women among the testators using French is high, and with 43% (3 of 7) in the higher ranks in contrast to but 17% (1 of 6) in the country middle ranks, the general distinction in rank is maintained. This distinction is far more marked than that for female testators using English, where there is no such preponderance. It is to be remembered that 31% (4 of 13) of French-language testators are women, compared with but 20% of testators using English, and 10%–14.5% of Latin-language testators.

This decline of French, along with the increasing importance of English and the maintenance of the predominance of Latin as testamentary languages is of considerable importance, for it is both part of and sheds new light upon the uses of the various languages at a time when the forms of literacy were shifting rapidly. In what sort of linguistic environment did the testators of the early fifteenth century find themselves? Some brief

<sup>56</sup> The testators are listed below in alphabetical order by surname or dignity. Sir Peter BESYLES, knight: Latin testament (1424), French last will (1424), *Reg. Chichele* 2:307–8, 342–44; Thomas of Lancaster, duke of CLARENCE: Latin testament (1417), Latin-French last will (1417), *Reg. Chichele* 2:293–96; Sir Thomas COLPEPER: French testament (1428), French codicil (1429), French last will (1425), *Reg. Chichele* 2:382–86; Sir William FAUCONER: French testament (1415), *Reg. Chichele* 2:44–45; Thomas FITZALAN, earl of Arundel: French last will (1415), Latin testament (1415), Latin codicil (1415), *Reg. Chichele* 2:71–78; Sir Thomas HAWLEY, knight: Latin testament (1419), French last will (n.d.), *Reg. Chichele* 2:191–95; Elizabeth MONTAGU, countess of Salisbury, lady of Hawarden: French testament (1414), *Reg. Chichele* 2:14–18; John MOWBRAY, duke of Norfolk, earl marshal, earl of Nottingham: French last will (1429), Latin last will (1432), *Reg. Chichele* 2:472–76; Edward PLANTAGENET, duke of York: French testament (1415), *Reg. Chichele* 2:63–66; Lady Alice STURY, widow of a knight: French testament (1414), *Reg. Chichele* 2:7–10; Sir Edmund THORPE, knight: Latin testament (1417), French last will (1417), *Reg. Chichele* 2:143–49; Isabella UFFORD, countess of Suffolk: French testament (1416), *Reg. Chichele* 2:94–97; Philippa YORK, duchess of York, lady of the Isle of Wight: French testament (1431), *Reg. Chichele* 2:457–59.

remarks which but touch upon a large and complex area of research will provide some context.

The need for authors to tell their stories in English had already been expressed by the beginning of the fourteenth century,<sup>57</sup> but it seems that French was nonetheless maintaining a strong position as the vernacular, especially among the top levels of the society. Ranulf Higden, a Benedictine monk at Chester, wrote his *Polychronicon* in the first half of the fourteenth century and at one point in his discussion of the languages and dialects spoken in Britain addressed the question of the corruption of the English tongues:

Haec quidem nativae linguae corruptio provenit hodie multum ex duobus; quod videlicet pueri in scholis contra morem caeterarum nationum a primo Normannorum adventu, derelicto proprio vulgari, construere Gallice compelluntur; item quod filii nobilium ab ipsis cunabulorum crepundiis ad Gallicum idioma informantur.<sup>58</sup>

The situation seems to have changed rapidly, for when John Trevisa translated Higden's work into English in the mid-1380s he felt the need to insert a comment on this statement. He noted that since the coming of the plague the custom described by Higden had changed, because of the activities of John Cornwall, a grammar master, and his pupil Richard Penriche. Cornwall had "chaunged þe lore in gramer scole and construccoun of Frensche in to Engliche" so that by 1385, the time Trevisa translated this section,

in alle þe gramere scoles of Engelond, children leueþ Frensche and construeþ and lerneþ an Engliche, and haueþ þerby auauntage in oon side and disauauntage in anoper side; here auauntage is, þat þey lerneþ her gramer in lasse tyme þan children were i-woned to doo; disauauntage is þat now children of gramer scole conneþ na more Frensche þan can hir lift heele, and þat is harm for hem and þey schulle passe þe see and trauaille in straunge landes and in many oþer places. Also gentil men haueþ now moche i-left for to teche here children Frensche.<sup>59</sup>

Trevisa's ascription of this change to John Cornwall is probably too specific, but this man, an Oxford master from at least 1344–49, did write the earliest extant treatise on Latin grammar to include explanations in

<sup>57</sup> Malcolm Parkes, "The Literacy of the Laity," in *The Medieval World*, ed. D. Daiches and A. Thorlby (London, 1973), 565. Parkes uses *Arthour and Merlin* as an example.

<sup>58</sup> *Polychronicon Ranulphi Higden*, ed. Churchill Babington and Joseph Rawson Lumby, 9 vols., Rolls Series (London, 1865–86), 2:158; see 1:ix–xi for comment on the author.

<sup>59</sup> Ibid. 2:161; on Trevisa, 1:liii–lv note.

English, his *Speculum Grammaticale* of 1346.<sup>60</sup> Thus as early as the 1340s English had become a medium of instruction, if a somewhat limited one, in the schools. Nicholas Orme is of the opinion that "its use was almost certainly restricted to the elementary stages," and that after mastering the rudiments with the help of English, pupils would be expected to deal fully with Latin grammar.<sup>61</sup> Indeed, there are foundation statutes for three Oxford colleges in the first half of the fourteenth century which prescribe the use of Latin and French only, but the Oxford university statutes compiled prior to 1380 for the guidance of grammar masters ordered the use of French and English in translations from the Latin in order that French not be wholly lost.<sup>62</sup>

Outside of the schools there are many illustrations of English beginning to find its way into use in the fourteenth century. In 1327 Andrew Horn, chamberlain of the City of London, expounded the city's new charter at the Guildhall in English rather than French; from Gloucestershire in 1344 comes the earliest extant English petition; and when around 1350 Humphrey de Bohun, earl of Hereford, commissioned a translation of the romance *William of Palerne*, the man who did the work noted that it was for people that could not understand French.<sup>63</sup>

At common law the working languages were Latin and French. By the thirteenth century pleas were conducted in French both in the king's courts and in private jurisdictions. In treatises such as *Bracton*, *Glanvill*, and *Fleta*, and for most statutes, writs, and the enrolments of pleas and judgments in the records of the courts Latin was used to about 1300.<sup>64</sup> The Year Books were written in French, along with most statutes from about 1300 to 1487, as were the later treatises such as *Britton* (1290s)<sup>65</sup> and Sir

<sup>60</sup> Nicholas Orme, *English Schools in the Middle Ages* (London, 1973), 95-97. By the 1430s there were grammatical treatises wholly in English and by the first third of the fifteenth century there appeared the first of the Latin-English dictionaries, the *Medulla Grammaticae*.

<sup>61</sup> *Ibid.*, 101.

<sup>62</sup> *Ibid.*, 73-74.

<sup>63</sup> Parkes, "Literacy of the Laity," 565. The petition, to Edward III, is described as "the earliest petition in English in the class of documents known as Ancient Petitions" in *A Book of London English, 1384-1425*, ed. R. W. Chambers and Marjorie Daunt, with an Appendix on English Documents in the Record Office, by M. M. Weale (Oxford, 1931), 272.

<sup>64</sup> Orme, *English Schools in the Middle Ages*, 42. See also Frederick Pollock and Frederic William Maitland, *The History of English Law before the Time of Edward I*, 2d ed., reissued with a new introduction and select bibliography by S. F. C. Milsom, 2 vols. (Cambridge, 1968), 1:79-87; William Holdsworth, *A History of English Law*, vol. 2, 4th ed. (London, 1936; rpt. 1966), 477-82.

<sup>65</sup> It is a measure of the fluidity of Latin and French as law languages that *Britton* was written in French at almost exactly the same time as was *Fleta* in Latin; see Theodore F. T. Plucknett, *A Concise History of the Common Law*, 5th ed. (London, 1956), 265.

Thomas Littleton's *Tenures* (Littleton died in 1481).<sup>66</sup> There is an indication, however, that procedure in the common law courts was not always smooth. In the parliamentary rolls for 1362 it is noted that "les grantz Meschiefs" are occurring because the laws, customs, and statutes of the realm are not understood "par cause q'ils sont pledez, montrez, et jugez en la lange Francoise, q'est trop desconu en le dit Roialme." In order to remedy the situation, Parliament asks

que toutes Plees que serront a pleder en ses Courtz queconques, devant queconques ses Justices, ou en ses autres Places, ou devant ses autres Ministres queconques, ou en les Courtz et Places des autres Seigneurs queconques deinz son Roialme, soient pledez et monstrez en la Lange Engleise.<sup>67</sup>

Indeed, when Sir Henry Grene, C.J., had opened this parliament he spoke in English, perhaps an indication of the problem to be addressed.<sup>68</sup> If this complaint did have some immediate effect it was not long lasting. Although at the opening of the 1363 parliament Grene once more "dit en Engleis," as did chancellor Simon Langham, bishop of Ely, in the 1364–65 session,<sup>69</sup> a brief sampling of the three sessions prior to 1362<sup>70</sup> and the four sessions after 1364–65 reveals no mention of English addresses similar to these, and the language of enrolment, of course, remained French.<sup>71</sup> It does indeed seem that, as Orme concludes, this attempt by the 1362 Parliament was without success,<sup>72</sup> but for such a problem with pleadings to reach the Parliament there must have been some considerable difficulty with the common usage of the French language. The first English entry in *Rotuli Parliamentorum* is a mercers' guild petition of 1386,<sup>73</sup> and other English entries can occasionally be found through the first two decades of the fif-

<sup>66</sup> Orme, *English Schools in the Middle Ages*, 42.

<sup>67</sup> *Rotuli Parliamentorum ut et Petitiones et Placita in Parlamento*, 7 vols. plus index (London, 1780–1832), 2:273, no. 39. There is, perhaps, some irony in the record of such a petition being in French.

<sup>68</sup> Ibid. 2:268.

<sup>69</sup> Ibid. 2:275, 283.

<sup>70</sup> Ibid. 2:246 (1353), 254 (1354), and 264 (1355), all with opening speeches by Sir William Shareshull, C.J. There are no rolls extant for the parliaments of 1357, 1358, 1360, and 1361; see May McKisack, *The Fourteenth Century: 1307–1399* (Oxford, 1959), 182 n. 4.

<sup>71</sup> *Rotuli Parliamentorum* 2:289 (1366) and 294 (1368), speeches by Langham; ibid. 2:299 (1369) and 303 (1371), speeches by chancellor William Wykeham, bishop of Winchester. For the inconclusive argument that we do not know how often after 1363 Parliament was addressed in English because clerks did not always trouble to include the phrase "dit en Engleis," see John H. Fisher, "Chancery and the Emergence of Standard Written English in the Fifteenth Century," *Speculum* 52 (1977): 880.

<sup>72</sup> Orme, *English Schools in the Middle Ages*, 73; Holdsworth, *History of English Law* 2:478.

<sup>73</sup> *Rotuli Parliamentorum* 3:225–26, no. 1.

teenth century. From the beginning of the reign of Henry VI to the middle of the century they become more frequent, and by 1450 they are the rule.<sup>74</sup>

From 1376 comes the earliest extant deed in English, which has been described as the oldest Middle English private legal instrument,<sup>75</sup> and our earliest English-language will is just over a decade later, in 1387. From 1392-93 come the earliest letters in English, with the language becoming common for correspondence in the course of the fifteenth century.<sup>76</sup> Business activity demanded writing, and the affairs of merchants and tradesmen thus required a degree of functional literacy for the keeping of records and for correspondence. For the most part it appears that the merchant himself produced these letters and records of stock, orders, and sales.<sup>77</sup> Orme suggests that while some trade activities must have involved the use of Latin, "it seems rather unlikely that all merchants, let alone craftsmen, were competent grammarians."<sup>78</sup> Merchants' letters of the fourteenth century are usually in French, with French and English being used from around 1400, depending, pragmatically, upon the country to which they are sent.<sup>79</sup> Orme concludes that the available evidence seems to suggest that the literacy of merchants and tradesmen meant primarily the ability to read and write in vernacular French and English, while a knowledge of Latin was "probably more sketchy and less common."<sup>80</sup> In 1422, the same year that the first English-language Privy Seal document was issued from Vincennes,<sup>81</sup> the London Guild of Brewers resolved to keep its records in English, noting that many of its craft knew how to read and write that language but were ignorant of French and Latin. They were prompted to this action at this particular time because the king, they note,

<sup>74</sup> Fisher, "Chancery," 880.

<sup>75</sup> See R. W. Chambers, *On the Continuity of English Prose from Alfred to More and His School*, EETS, o.s., 191A (London, 1932; rpt. 1957), cx note 3; John Edwin Wells, *A Manual of the Writings in Middle English, 1050-1400* (New Haven, 1916; rpt. 1926), 442.

<sup>76</sup> C. L. Kingsford, *Prejudice and Promise in Fifteenth Century England* (Oxford, 1925), 22-23. These are two letters written to Thomas Cogesale by Sir John Hawkwood, the great English mercenary captain, from Florence in the winter of 1392-93. Noting that the first is the oldest known letter in English, Kingsford remarks, "It is, of course, impossible to be certain that the letters were written by Hawkwood himself, though if that is not the case they were no doubt dictated by him, and the form of the letters suggests that the use of English for such a purpose was not unfamiliar to the writer" (23). The importance of private correspondence is discussed on pp. 186-88 below.

<sup>77</sup> Orme, *English Schools in the Middle Ages*, 45. On the education of merchants, see Sylvia L. Thrupp, *The Merchant Class of Medieval London, 1300-1500* (Ann Arbor, 1962), 155-63.

<sup>78</sup> Orme, *English Schools in the Middle Ages*, 45.

<sup>79</sup> *Ibid.*

<sup>80</sup> *Ibid.*, 48.

<sup>81</sup> 27 August 1422. Helen Suggett, "The Use of French in England in the Later Middle Ages," *Transactions of the Royal Historical Society*, 4th ser., 28 (1946): 62.

had used English in his letters to them and, indeed, the royal signet office had begun to use that language a few years earlier, with French being superseded after 1417.<sup>82</sup>

One of the most significant factors in the rise of English was the practice of the great central administrative office of the government, the Chancery. It was the clerks of the Chancery who introduced English as an official language between 1420 and 1460, thus giving it validity in legal and administrative matters and an enhanced respectability generally.<sup>83</sup> But what they produced was a distinct form of the language which has been called by John Fisher "Chancery English": it was an administrative language, independent of the spoken dialect of any region or class, and its primary role was, as with Latin and French before it, to maintain a comprehensible official means of communication throughout the kingdom.<sup>84</sup> Fisher describes the characteristics of Chancery English in detail and makes clear its importance by noting that it would be the language most people were familiar with, rather than any forms of literary English. Bureaucratic material, such as licenses and records, legal instruments dealing perhaps with inheritance or the transfer of property, business writing, possibly in the form of bills, agreements or instructions, these would contain the English that most people would know and this English was increasingly influenced by the work of the Chancery.<sup>85</sup> Fisher posits that professional scribes spread the Chancery conventions throughout England by 1460 and has pointed out as well the importance of business writing in this process.<sup>86</sup> Malcolm Richard-

<sup>82</sup> *A Book of London English*, 139, where it is noted that the records of the brewers were, indeed, henceforth kept in English, "with occasional lapses into Latin or French." The full explanation for the change is worth presenting.

Wheras our mother-tongue, to wit the English tongue, hath in modern days begun to be honorably enlarged and adorned, for that our most excellent lord, King Henry V, hath in his letters missive and divers affairs touching his own person, more willingly chosen to declare the secrets of his will, and *for the better understanding of his people*, hath with a diligent mind procured the common idiom (setting aside others) to be commended by the exercise of writing: and there are many of our own craft of Brewers who have the knowledge of writing and reading in the said English idiom, but in others, to wit, the Latin and French, before these times used, they do not in any wise understand. For which causes with many others, it being considered how that the greater part of the Lords and trusty Commons have begun to make their matters be noted down in our mother tongue, so we also in our craft, following in some manner their steps, have decreed to commit to memory the needful things which concern us . . . (emphasis added).

Interestingly, the undertaking was recorded in Latin in the Brewers' First Book; this translation was provided in the Brewers' Abstract Book.

<sup>83</sup> Fisher, "Chancery," 877.

<sup>84</sup> *Ibid.*, 870, 872.

<sup>85</sup> *Ibid.*, 894.

<sup>86</sup> *Ibid.*, 896.

son has extended the analysis, especially with his observation that one of the major factors in the standardization of English in the 1420s was the demand of the law that its documents be precise. As the legal profession began to regard English as an acceptable language, pressure was put on the Chancery to develop a precise standard for it.<sup>87</sup> The details of the means of diffusion of both the language and the forms of legal and business writing throughout the country remain obscure, although there are some indications that lawyers may well have been responsible.<sup>88</sup>

It is evident that the shift in language was a widely variable process dependent upon rank and occupation, convention and formality, and popular sensibility concerning how best to function in a changing social and economic environment. What should be emphasized for the purposes of this essay is the observation, made by John Trevisa in 1385, that children were being taught to construe their Latin in English rather than French. R. W. Chambers posited that if this were so, the children of these years would become active in affairs by the early fifteenth century and one might expect to see their English-language education produce documents in that language.<sup>89</sup> In the case of the earliest English wills this seems to be so and, moreover, these documents shed some light on the reasons for the use of the English language, both in testamentary instruments and, by inference, in other writing.

The language of record of the Church and its courts in the fifteenth century was Latin, as had been the case for hundreds of years and as it would remain for centuries. Thus it is not surprising that the large majority of the wills enrolled in the Chichele register—in common with all other medieval episcopal probate registers—were written in that language. But Latin was unlikely to have been the usual language of pleading, as this would have made it difficult for parties to put a case forward. It might be expected that French would have been adopted for the courts' use, as happened in the royal courts, but while this may have been the case earlier, there is an indication in the Chichele register that by the early fifteenth century the use of this language was itself presenting problems. In 1417, in the course of proving the will of Richard de Vere, earl of Oxford, his widow produced a document which she claimed was his testament, along

<sup>87</sup> Malcolm Richardson, "Henry V, the English Chancery, and Chancery English," *Speculum* 55 (1980): 743.

<sup>88</sup> See Timothy S. Haskett, "Country Lawyers? The Composers of English Chancery Bills," in *The Life of the Law*, Proceedings of the Tenth British Legal History Conference, Oxford 1991, ed. Peter Birks (London, 1993), 9-23, for some suggestions on this topic based on the work of the Court of Chancery.

<sup>89</sup> Chambers, *On the Continuity of English Prose*, cx.

with a letter to prove its validity, written in French and sealed by three esquires of the late earl. An unusually detailed account of the subsequent process is then given in the register:

Qua quidem littera nobis per dictum Willelmum Breton', gallicum legere et intelligere scientem, quem ad exponendum et interpretandum dictam litteram et singula in ipsa contenta ad sancta Dei evangelia iurare fecimus nobis ad nostrum intellectum vulgarizata et exposita, dictoque Willelmo et contestibus suis predictis super factione huiusmodi testamenti et ultime voluntatis iuratis et examinatis in forma iuris, quia invenimus dictum testamentum per premissa sufficienter et legitime fuisse et esse coram nobis probatum.<sup>90</sup>

The vulgar tongue into which Breton translated the letter must have been English. The presiding ecclesiastical officers for whom the translation was made were the archbishop's commissaries, William Alnewyk, bachelor of laws, and John Cok, rector of the parish church of Lavenham, Norwich.<sup>91</sup> It is likely that the former was a competent scholar, and perhaps Cok was as well, but evidently neither knew French. Although this is an isolated incident, it does indicate that the decline of French as a vernacular language was having an effect on the smooth functioning of the Church courts. In the decade following this occurrence the number of French wills declined markedly and difficulties in proving such instruments might have been a contributing factor.

While French began to disappear, the number of Latin wills remained large. If English was on the rise and a working knowledge of Latin was not common among the laity, then the question arises of who actually composed the wills. Occasionally we are told. The most celebrated example must be the testament of Simon de Montfort, composed in 1259, wherein it is stated that his son Henry wrote it with his own hand.<sup>92</sup> Among the English-language testators of this study, five noted that they had written the document, another fully inspected her testament before sealing it and two more wanted to be able to have direct access to the content of the instrument. In 1415 Thomas Broke, a Dorset landowner, made his testament in English. In the ultimate line of the document he noted, "Thys twey Lynis I wrete almeste with myn owne Hond."<sup>93</sup> Indeed, this sentence

<sup>90</sup> *Reg. Chichele* 2:118; and see 2:xxx.

<sup>91</sup> *Reg. Chichele* 2:116–17.

<sup>92</sup> Printed along with a facsimile in Charles Bémont, *Simon de Montfort, Earl of Leicester, 1208–1265*, trans. E. F. Jacob (Oxford, 1930), 276–78: "E je, Henris, fiz au devant dit Simon, ai escrites ces lettres de ma mein" (278).

<sup>93</sup> The sense of the term *almeste* here is "nearly all," or "for the most part"; cf. *al-most*.

and the preceding one are quite different in style from the rest of the document, being somewhat repetitive and awkward. Someone else wrote the bulk of the testament under instruction and perhaps assisted Broke in the dating of the instrument. In 1424 and 1425 Roger Flore, esquire of London and Rutland, produced a Latin testament with an English codicil, and an English last will and codicil. In the course of the last will, following a lengthy series of directions to his feoffees and co-feoffees, he noted, "I write nomore atte þis time," and prayed that God would have mercy on his soul and give his executors the grace to carry out his testament and last will. He concluded this section of the document with the statement, "writen with myn owne hand," followed by the date. When he added the codicil to his last will, he once more noted his personal involvement in the writing: "In witnes of which þis my writyng of myn own hond. . . ."

William Newland was not quite so specific in his notation. In his English-language testament, written possibly in 1425 or early 1426, he concluded the document by stating, "Writen þe xx day of Decembr' in London be me William Newland." The English-language testament of Richard Tyrell, esquire, from 1431, concluded with the brief statement, "writen with myn owen hond." Roger Leveden, a merchant from the parish of St. Thomas in Bristol, in 1447 made provision in his testament in case any ambiguity should arise "of eny thyng I wryte above." It is possible that such a phrase comprehends writing done on his behalf and under his instruction—something common to every will that is not a holograph—yet his making the effort to insert the information would argue against this. Dame Isabell, countess of Warwick, unlike these testators did not personally write her English-language testament in December 1439, but apparently she did inspect it closely before she affixed her seal to it: "In witnessyng and verry a prief wherof, my last will by me examyned and closid at London . . . I have put the seall of my Armes." Perhaps it was considered improper for someone of her station actually to write the instrument, or perhaps she was unable to do so, but she was concerned that the content of the document be rendered correctly and in order to ensure this she had the will written in English, a language which she could evidently read. In this concern she was not alone. It will be recalled that Anne, countess of Stafford, in 1438 specifically had her testament written in English so that she could read and understand it.<sup>94</sup> Of less evidential weight, but still of importance, the 1437 English-language last will of Richard Beauchamp, earl of Warwick and of Aumale, may be added to this group of instruments. In the

<sup>94</sup> See p. 149 above.

dating clause of the document he noted, "reuywed and maad by me." Like the countess of Stafford, the earl was unlikely to have written the instrument himself, although he would still be considered its maker; yet he evidently reviewed its contents, presumably by direct reading of the English text. The concern displayed in all these examples is to have close control over the will, to be able at least to understand its contents at first instance and, in some cases, to write the instrument personally. A will was an important document; it is little wonder that testators might wish to understand it directly. French had perhaps served this purpose in an earlier period, but with its decline it was English that took its place as the vernacular of the will.<sup>95</sup>

These are the only examples among these English-language wills of testators reading, and in some cases writing, their own wills. As for determining just who it was who composed—or took notes of the testator's oral instructions and then engrossed—the very large number of wills in Latin, this is a more difficult and less studied question. Yet it may once more be suggested that they were the work of professionals, that is, clerks, notaries, and most especially lawyers who were fully cognizant of both the language and the form proper and necessary to the will. Indeed, such people were likely the ones who formally drew up wills in English and in French.<sup>96</sup> There was, perhaps, no reason why bishops, scholars, and clerks might not compose their own wills in Latin, and certainly Latinity in English society was by no means limited to such people. But as English was rapidly becoming the functional vernacular and making an appearance in a variety of documentary forms by this time, the use of Latin must be considered to a large extent the function of convention. It is unlikely that a nail-maker from Coventry would choose to use Latin for his testament;<sup>97</sup>

<sup>95</sup> These English-language wills are not alone in expressing a desire to gain some immediate control over the correctness of their contents. In Simon de Montfort's will, mentioned above (p. 170) his son Henry, after explaining that he wrote the French *testament*, continues, "[je ai] oiraie et promet a mon seigneur mon pere ke je a bone faie e a tot mon poer tendré ce ke est ci escrit" (Bémont, *Simon de Montfort*, 278). It would appear that Simon had his son write the will in French in order that he could be assured of the accurate rendering of his dictated bequests. It is unlikely that Henry could read Latin well, let alone write it. Among the testators of this study there is one other indication of the personal writing of an instrument, although it is rather unusual. At the close of Thomas Mulso's Latin testament of 1445 there is the following: "... et hec est mea voluntas vltima et scripsit per manum suam propriam." The shift in person is abrupt, for the entire testament has hitherto been in the usual first person, as is the following English last will. The second part of the sentence has the appearance of being added by an observer, and it is not clear whether it refers to Mulso having written the whole document in Latin or just a sign manual as witness. The latter is perhaps more likely.

<sup>96</sup> See n. 88 above.

<sup>97</sup> *Reg. Chichele* 2:122–23 (Thomas Balescot).

he merely went about making his will in the usual way, which would mean having someone who knew the proper form and formulae, grammar, and vocabulary draw up the document following his specifications as to legacies and instructions. A similar case could be made for the Latin wills of farmers, esquires, and the like, and perhaps especially for brewers.<sup>98</sup>

But while convention may explain the presence of the majority of Latin wills, it is possible to demonstrate that the choice of English in its stead involved much more than simply a predilection for that language. Occasionally a testator chose Latin for one document and English for another, and in some cases we find the two languages used in a single instrument. Seventeen testators produced separate Latin and English documents, while there are only eight examples of testators mixing the two languages in one document; three of the latter group did both.

TABLE 2

A. TESTATORS PRODUCING SEPARATE LATIN AND ENGLISH INSTRUMENTS

Registers of the London Bishops' Commissary Court (*Courteney, Brown, More*)

Broun	Latin testament (1417) Latin codicil (1417)	English will and governance (1418)
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Prerogative Court of Canterbury Probate Registers (*Rous, Marche, Luffenham*)

Thomas	Latin testament (1417)	English testament (1417) English codicil (1418 or 1419)
Flore	Latin testament (1424) English codicil (n.d.)	English last will (1424) English codicil (1425)
Hanyngfeld	Latin testament (1426)	English last will (1426)
Rocheftort	Latin testament (1439)	English last will (1440)
Wynter	English testament (1445)	Latin last will (1445)
Alred	Latin testament (1446) Latin codicil (n.d.)	English last will (1446)
Malton	Latin testament (1447)	English last will (1447)
Whaplod	Latin testament (1447)	English last will (1447)
Morstede	Latin testament (1450)	English last will (1450)

Registers of the Archbishops of Canterbury (*Arundel, Chichele, Stafford*)

Heron	Latin testament (1404) English codicil (1404?)
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<sup>98</sup> Recall the statement of the brewers' guild, noted on p. 168 and n. 82 above.

Poyninges	Latin testament (1428)	English last will (1428)
Arundel	Latin testament (1430)	English last will [1430 × 1436]
Halsham	Latin testament (1442)	English last will (1442)
Mulso	Latin testament (1445)	English last will (1439)
Fenys	Latin testament (1449)	English last will (1450)

Register of Thomas Langley, bishop of Durham (*Langley*)

Lumley	Latin testament (1418)	English codicil (1420)
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#### B. TESTATORS PRODUCING AN INSTRUMENT THAT USES LATIN AND ENGLISH

Registers of the London Bishops' Commissary Court (*Courteney, Brown, More*)

Schapman	Latin-English testament (1428)
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Prerogative Court of Canterbury Probate Registers (*Rous, Marche, Luffenham*)

Langford	Latin-English testament (1411)
Burton	Latin-English testament (1447)

Registers of the Archbishops of Canterbury (*Arundel, Chichele, Stafford*)

Daubeney	Latin-English testament (1445)
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Register of Thomas Langley, bishop of Durham (*Langley*)

Bowes	Latin-English testament (1421)
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#### C. TESTATORS PRODUCING BOTH (A AND B)

Prerogative Court of Canterbury Probate Registers (*Rous, Marche, Luffenham*)

Walwayn	Latin-English testament (1415)	English will (n.d.)
	Latin codicil (1415)	
Bathe	Latin testament (1420)	
	Latin-English codicil (n.d.)	

Registers of the Archbishops of Canterbury (*Arundel, Chichele, Stafford*)

Pevere	Latin-English testament (1426)
	English codicil (1426)

In every case save one where a testator produced separate Latin and English documents it is the testament that is in Latin and the last will that uses English. The single exception is the will of John Wynter, esquire, but his case may be taken as both unusual and instructive. On 20 May 1445, he

composed his testament in English; ten days later Wynter had a nuncupative Latin last will drawn up, but the dating clause notes that this was done in the house of the Carmelite brothers in Fleetstreet. It would appear that the instrument was produced by a brother of that house, or a cleric associated with it, who was familiar with the normal Latin form and formulae and who used this as a matter of course.

It was noted in the earlier discussion of the two main types of testamentary instruments that the testament is the more formal document, displaying an easily identifiable and consistent form, formulae, and vocabulary. Thus it is not surprising that testators might carry such formality through to their choice of the language in which to have the instrument written; the formality and regularity of Latin would complement similar diplomatic qualities in the testament, while the novelty of English was in keeping with the less rigorous character of the last will. Yet there is more behind their choice than this. The English-language last wills in these examples and, indeed, the use of English in all these testamentary instruments, is an attempt to ensure that the instructions of the testator are clearly and easily understood by his executors, beneficiaries, and agents on their own. The complex property arrangements in the last will of Hugh Halsham, knight, would have been more easily dealt with by his executors and feoffees being written in a language they could understand, as would the use described in the last will of Sir Thomas Poyninges. The convoluted manipulations of a dozen manors in at least three counties among five feoffees, as set forth in the last will of John Arundel, earl of Arundel and lord of Maltravers, might well have been aided by the document being rendered in English.

In seven out of the eight cases where there is a mixture of Latin and English in single documents it takes place in the testament, indicating once more the tie of formality between instrument and language. The exception is the codicil of John Bathe of Bristol, which contains a few Latin sentences in an otherwise English document. And again, these testaments can be seen as indicative, too, of concern on the part of testators that their instructions be understood by the parties being addressed. The testament of Sir William Langeford, knight, written in 1411, begins with a Latin invocation and dating clause. His name and the description of the instrument are in Latin, as is the commendation of soul and body. His first legacy of 6s.8d. to the work of Sarum cathedral is also in Latin, as is the second bequest of 40s. towards the repair of the chapel in the same church. The testament then changes abruptly into English: "Item lego ad reparacionem Capelle predicte quadraginta solidos. Also y beqweythe to lucye my wyfe. . . ." The bequests that follow in English are to his wife Lucy, his

eldest son Robert and his wife Elizabeth, his other sons William and Henry, his daughters Isabell and Lucy, and his servants. They are intricate familial arrangements concerning both chattels and property, arrangements which would have to be well understood in order to ensure the continued welfare of William's family after his death. At its close the testament reverts to Latin for the appointment of executors, an item primarily of concern to the ecclesiastical court that would prove the will and assign administration.

A similar motive for the mixture of languages is evident in the testament of Thomas Walwayn, esquire of Herefordshire. Written in 1415, it, like Langelord's testament, displays a Latin invocation, description of instrument, and commendation of soul and body. The first legacy of 100s. to Hereford cathedral and the following provision for the celebration of masses are also in Latin, but the third item displays a language shift even more remarkable than that in Langelord's testament: "Item volo quod tercia pars monete that may be hade of Dene and Chalford be sette by myn executours vppon the makynge of the stepell of the chirche of Marcle." Bequests follow in English to the poor, for masses, to his wife Isabell, for his burial, to his son Richard, and to his daughter Cristian. Another abrupt change follows: "... euerychon of hem .xx mark. Item lego priori Magne Maluerne .xl. li." Then comes a bequest of money to his brother William along with other legacies, the appointment of executors, and the dating clause, all in Latin.

The will of John Bathe of Bristol similarly presents an unusual language change. In this case the testament is entirely in Latin and it is his codicil, not dated but probably of late 1420 or early 1421,<sup>99</sup> which is of concern. The instrument is wholly a list of bequests of chattels and, towards the end, in the middle of the recitation of items to be given to his servant Katherine Lewys,<sup>100</sup> he notes, after describing one pestle as *de ferro*, "Item dimidium þe zieren and wolle that is in this house þe day of his dying, and all þe cloth whyte et cetera þat is redy with in þe hous att tyme of þe makynge of thys. Item I maserum ligatum cum argento et deauratum. . . ." He continues in Latin to bequeath items to one John Crouche and to date the document. This language change is inexplicable in terms of the bequests, for the shift comes in the midst of gifts to one person. It may be suggested, however,

<sup>99</sup> Bathe wrote his testament in June 1420, and his executors were acquitted in October 1421. The codicil likely postdates the former and antedates the latter by several months.

<sup>100</sup> Katherine does very well by Thomas, and must have been a much-valued member of his household. The indenture provides but small bequests to his godson and one William Rodeley, yet she is to receive £10 sterling plus plate, clothing, jewelry, and furnishings, all in considerable quantity.

that a second scribe wrote this last section, for the intrusive Latin words preceding the change imply a difficulty with—or dislike of—English, and the word *his*, indicating a nuncupative instrument, appears only at this point and is maintained through the remainder of the document in place of the first-person singular, which has governed the instrument from the beginning. The use of *item* is also a change, but one that may simply be the Latin style.

This type of mixture in language is, clearly, indicative of a formative period in the evolution of the English-language will, for these three examples, which present some of the strongest use of English and Latin together in one document, were all written before 1421. Three other examples of later date contain only minor Latin insertions in English-language testaments and these appear to be formulaic. The testament of Lady Maud Bowes, written in 1421, is almost wholly Latin; the English elements all appear in descriptions of English-language books that she is bequeathing and are examples of just how easily English terms could, plainly or in Latinized form, intrude when lists had to be compiled:

Item do et lego Matildi filie baronis de Hilton filiole mee j romance boke [that] is called *The gospelles*. Item lego Matildi filie Roberti de Hilton chivaler filiole mee unam romance boke. Item lego Dame Elinore de Wessington the boke with the knotts. Item lego Elizabethe filie Whitchestre j librum that is called *Trystram*.

The testament of Thomas Pevere, written in 1426, commences with a Latin invocation, date, and description of instrument, but the remainder is wholly in English. Robert Schapman concluded his English-language testament with a Latin statement of sealing and dating in 1428. Finally, Giles Daubeney's testament, written in March 1445, presents its invocation, date, name and self-description, and commendation of soul and body in Latin before switching to English for the remainder of the document. Interestingly, the first bequests in English concern gifts of vestments, altar cloths, plate, a Mass book, and the like to his burial church, followed by charitable disbursements and provisions for masses, and only then moves to bequests for his family. The testament does, however, provide one further and rare insight into the making of a will and the vernacular recitation that brought the written English-language will closer to its maker. After the testament ends in the register there is a small gap and then some further information is added, still in English. It is stated that Daubeney "marked this said testament wrote hit with his owne honde and seled hit with his seal of Armes." But, we are told, in the instrument he did not bequeath the residue of his goods, so on 11 January 1446, when Daubeney

was "ligging in his sykenesse where of he deyed soone after," the priest Sir Robert Wyly, his "gostly fader," approached him; we are then given a small bit of direct discourse: "Syre ye haue made a testament and bequethe many pinges to diuers persones makyng no mencion ho sholde haue the residue of youre goodes that beth nought bequethe wol ye fouchsaffe to seye ho shal haue hit forthwith. the said knyght withoute ony tarrying saide my wyf. This was his last wille." The intimation in the quick response of trust and affection for his wife is also worthy of note.

Between 1420 and 1450 there is only one further example of this internal language mixture and it is so extreme that it might well be considered anomalous. In 1447 Thomas Burton of Lightburch produced his testament, which began in Latin with an invocation, date, name, description of the instrument, commendation of soul and body, and provision for exequies. Before the document is finished the language has changed between Latin and English no fewer than nine times. The legacies begin with a shift to English for bequests to a workman, for the provision of a priest and vestments, and for charitable gifts, then changes back to Latin for a series of gifts to the fabric of seven churches. English is then used to request prayers from the parson of St. Anne's of Sutton, but there is an immediate return to Latin for a further five legacies to church fabrics and a gift to a chapel. English is used for the friars of Leicester, Latin for a gift to his parish, English for bequests to his godchildren, and for the final clause a sentence begins in Latin and then quickly shifts into English: "Item lego filiis meis dimidiam partem bonorum meorum with al the hole household with them for to remeue and abyde." It is difficult to find reason behind these changes. The Latin beginning is common enough form and English might well make sense in the bequests to a workman and the testator's godchildren, but why it would be more appropriate than Latin in the provisions for a priest and vestments, for prayers from a parson, and for friars is unclear. Latin used when gifts to church fabric, a chapel, and even his own parish are at issue is sensible, but beginning the direction of half his goods and all his household to his sons in this language and then changing to English halfway through looks to be the correction of a mistake.

Apart from these one unusual and four minimal occurrences, the two languages, Latin and English, remain after 1420 confined to the separate documents which constitute the wills of these testators. Examples of this usage cover the period 1415-50. It may be said, then, that while English makes an appearance as a testamentary language on its own in a small way prior to the second decade of the fifteenth century, in the 1410s it is to be found combined with its Latin exemplar as it establishes itself in accept-

ability in language, form, and formulae. From the 1420s Latin and English do not normally form a mixture in single instruments, and although the former remains dominant the latter continues its steady growth. As an illustration of the fact that we are observing a development in the use of a new vernacular, out of all 101 testators using English only one—and a very early one at that—uses English and French together in a single instrument,<sup>101</sup> and there are no instances at all of these two languages being used for separate parts of a testator's will. Save for this single example, the 101 testators use Latin, English, or Latin and English, but no other combinations.

With what degree of success was the English language adapted to the standard Latin form of the testament? Analysis of the 137 extant instruments produced by the 101 testators of this study to manage their affairs *post obitum* indicates that there was little difficulty. Of the 137 instruments in Table 3 below, 117 (85%) use English. Eighty-one (69%) of these 117 are testaments, most of which follow the standard format of the Latin model. Those which display considerable irregularity come from the early part of the period, again prior to 1421.<sup>102</sup> The testament of John Sutton, lacking the rather important element of a date, was proved in 1419. It is extremely brief but does contain an invocation, name, description of the document, and commendation of soul and body. The sole legacy is to his uncle, the chaplain Robert Claydon, who is to have all his land and goods to dispose of, in order that Sutton's mother be provided for and that his debts be paid. With this the testament ends abruptly. In 1408 John Plot, citizen and maltman of London, composed a document which he called simply "my wyll," but which displays some of the characteristics of a testament. It begins with an invocation, name and title, and date, but then launches into a muddled series of bequests and charges, each introduced by the phrase, "Also my wyl ys." Reference to the fulfilment of earlier wills

<sup>101</sup> The will of John Pyncheon, citizen and jeweller of London, is dated 1392 and is in French save for one English insertion. The section begins: "Ieo volle que la moneye soit despendu cest-assavoir to þe pore Men þat hau ben Men be fore of god conuersacion . . ."; these poor men are to receive 20s. or 2m. or 40s., depending on their rank before they were impoverished. Poor lame or blind men are to be clothed, Newgate prisoners and lepers given relief for a year, and poor monks, canons, and friars given small sums. Furnivall surmises that this section was written in English "perhaps in order that his charitable gifts might thus be more plain," yet this seems unlikely. If Pyncheon's executors and beneficiaries could comprehend the rest of the document in French, surely they could also manage these particular legacies and it is unlikely that the poor and destitute who will benefit from these provisions would themselves have been expected to have access to the instrument and to comprehend and defend their interests.

<sup>102</sup> It will be recalled that those wills displaying a significant mixture of Latin and English within a single instrument are also pre-1421.

TABLE 3

## SOURCE AND TYPE OF ALL TESTAMENTARY INSTRUMENTS

	Registers of the London Bishops' Com- missary Court ( <i>Courteney, Brown, More</i> )	Prerogative Court of Can- terbury Pro- bate Registers ( <i>Rous, Marche, Luffenam</i> )	Registers of the Arch- bishops of Canterbury ( <i>Arundel, Chi- chele, Stafford</i> )	<i>Reg. Langley</i>	TOTAL
A. SEPARATE ENGLISH AND LATIN INSTRUMENTS					
	Lat/Eng	Lat/Eng	Lat/Eng	Lat/Eng	Lat/Eng
Testament	1/23	9/26	4/23	1/2	15/74
Codicil	1/2	1/4	0/4	1/1	3/11
Last will	0/0	1/11	0/9	0/0	1/20
Codicil	0/0	1/1	0/1	0/0	1/2
TOTAL	2/25	12/42	4/37	2/3	20/107
B. MIXED ENGLISH AND LATIN INSTRUMENTS					
Testament	1	3	2	1	7
Codicil	0	1	0	0	1
Last will	0	0	0	0	0
Codicil	0	0	0	0	0
TOTAL	1	4	2	1	8
C. IRREGULAR INSTRUMENTS					
Appointment of will and gov- ernance	1				1
French-English testament	1				1
TOTAL	2				2

is followed by provision for prayers by a priest whose competence is to be assessed; allowances for bread and ale at his funeral give way to bequests of clothing, gifts to servants, dowries for maidens "of gode name and of gode fame," and a stern warning to his executor, Robert Pygeon, that he will answer on the day of judgment if he should act against the instructions and intention of the instrument. Pygeon's appointment is reduced to the statement—unusually placed at the beginning of the document—"that he take ful Charge & ful ministracion of al my godys." Disorganization is evident, especially at the end where, having stated, "thys ys my last wyl, y wrete In the day and zere A bovyn y sayde," he then proceeds to talk of repairing bad roads.

Another irregular testament appears three years later, written for Robert Averay of the Cordwainers' Company of London. Again, there is no internal description of the instrument, but the writer strives to make it a testament, beginning with an invocation, name, and a commendation of soul and body. The bequests that follow are a mixture of personal bestowals, exequies, and provisions for prayers. The document closes with a note of the date and a statement of sealing, but there is added as an afterthought the appointment of another executor with an honorarium for him. Thomas Tvoky, esquire, had his testament written probably around 1419, complete with invocation, name and title, description of the instrument, and a commendation of soul and body. There follows an extensive list of clothes and chamber items, but no beneficiary is mentioned—it is merely a list. With it the document ends, without mention of executors, date, sealing, or other usual testamentary items. There is no probate entry and the instrument simply seems incomplete. The testament of John Rogerysson of London—like that of Sutton, not dated, but proved in 1420—lacks any of the usual introductory formalities. It begins directly with the statement, "Thes beth the godes that y, John Rogerysson, leve in a chuste in the hous of Roberd Leget dwellyng in the parysh of seynt Benet Fynk And his ys my wylle." A list of bequests then follows. It leaves an impression of a hurried arrangement, with the testator depositing his collection of chattels and money with an executor and drawing up a brief list of instructions. Rogerysson does appoint executors, but the instrument is lacking in most of the usual testamentary formulae.

Minor irregularities appear in three other pre-1421 testaments. The earliest of the instruments in the entire group of wills, Robert Corn's 1387 testament, is a remarkably good production, given this distinction. It lacks any description of the document, moving directly from his name to the commendations of soul and body. While very terse it is generally a good,

clear testament. Richard Roos's testament of 1406 omits only a commendation of his soul, proceeding from that of his body to provisions for exequies, although there is an unusual number of afterthoughts—including the nomination of executors—following the normal closure with place and date. The 1417 English-language testament of Stephen Thomas can, in a rare occurrence, be compared with his Latin testament, written a day later. The Latin instrument is brief but of exact form, while its English counterpart—much longer and much more detailed—begins irregularly with a brief patent address: "Knowe all men þat. . . ." Commendation of soul and body is followed immediately by nomination of executors, legacies, and sealing and witnessing. Given this slightly irregular form, it may be posited that the brief Latin testament was written the following day to provide a more formal instrument to lead the will under probate; it does appear first in the register. There is some overlap of the contents of the two documents. His soul is commended to the Blessed Virgin and All Saints in both, but the Latin testament modifies the burial location from wherever God wills to a specific church and provides also for exequies and gifts there. The Latin testament also modifies the list of executors, confirming three and deleting one, and adds a residue provision, giving it to these executors for disposal for the good of his soul.

There are five slightly irregular testaments from the post-1420 period and two of them are those of women. The testament of Isabell Gregory of Hackney, Middlesex, not dated but proved in 1432, lacks the usual prefatory dedication and dating, beginning simply with her name and the commendation of soul and body. Several bequests are followed by the appointment of executors, which is reduced to the statement that William Selvester "haue the governaunce" of the provisions. The document ends with a few more bequests. The testament of Isabell Dove, widow of Thomas Dove, citizen of London, written in 1425, is one of the shortest of the English-language examples, consisting of less than a hundred words. Dispensing with any formal structure it begins simply, "Thys is the will o Isabell Dove," followed by the date. The only directive given is that Gertrude de Lunhx, wife of another citizen of London, is to have her goods in order to bury her, to pay her debts, and to fulfil her bequests—which are not specified—with the residue to be kept for her husband when he returns from beyond the sea.<sup>103</sup> It is reasonable to suggest that this instrument was composed by a woman who found herself in some fear

<sup>103</sup> See the note in the Appendix (n. 139 below). If she is indeed widowed and not re-married, Gertrude will be keeping the residue for quite some time.

of imminent death and made an ad hoc attempt to ensure the peaceful transmission of her goods.<sup>104</sup> Also very brief is the 1428 testament of Walter Newent: there is but a single legacy, assigning everything to his wife Alison to do with as she likes. After the invocation, the phrase "This be testament of Water Newent y writen in London" identifies the instrument which thereafter is regular in form. Another of these irregular instruments is one of those noted earlier as being composed by the testator himself. William Newland, in writing his own testament—which omits a proper date but was proved in 1426—produced an instrument which lacks any form of invocation or commendation of soul and body, although it is partially dated at the end and executors are appointed. He notes specifically that he is making his will as a precaution, "what þat euer god ordene for me in my lorneye," and as this is a holograph perhaps the irregularity of form is due to the necessity of hurried composition prior to the intended trip. Finally, Sir Gerard Braybrooke in 1428 embellished an otherwise unremarkable testament with a substantial flourish in the form of an introductory prayer, asking God the Trinity for mercy because of his wretched state and that he might make good and proper disposition of all his possessions.

Thus the irregular post-1420 English-language testaments ought not be construed as examples of composers and writers having difficulty in using English while following required Latin form and formulac; there are other good reasons for the problems that are evident in these instruments. It would seem, then, that as was the case with English establishing itself as a functional testamentary language by 1420, the adaptation of the form and formulae of the Latin testamentary exemplar to English was also nearly complete by this time. From the third decade of the fifteenth century English-language testaments become more numerous and for the most part are of better quality when viewed by the standard of the Latin model. It will have been noticed that the period from the appearance of the first English-language testament in 1387 to this time is not a long one—merely thirty-three years. In view of what was noted above about the rapid rise of English in the late fourteenth century, it may be suggested that before the turn of the fifteenth century testators in England were thinking of, talking about, and dictating their testaments in English, for the appearance over

<sup>104</sup> Isabell clearly had substantial enough goods of her own to merit making even such minimal provisions. As there is no indication here of any other document pertaining to her bequests, it would seem that these were made orally, presumably to Gertrude, who, the probate notice tells us, was given administration; a marginal note records that she completed her task to the court's satisfaction.

such a short period of set form and formulae and vocabulary in a language other than Latin indicates the quick adaptation to writing of a spoken and well-understood tongue.

It is more difficult to assess the development of the English-language form of the last will because, as noted above, the Latin form itself never really maintained a consistent pattern. Yet the testators of this study who produced such instruments utilized them for just the same purposes as did their Latinate counterparts. An excellent example of this is the lengthy and very complex English-language last will produced in 1442 by Edward Tyrell: it covers two and a half folios in the probate register. A major part of the instrument is taken up with directions appurtenant to a use in which "my lordes of Stafford and of Oxenford," along with others unnamed, are the feoffees. Three manors along with rents and services in eleven Cambridgeshire towns are involved, and the feoffees are to make estate of them to Tyrell's widow Anne and then to his son Edward when he reaches the age of twenty-one. If his son Edward has no issue, Tyrell's daughters Phillipa and Margaret are to be given a life term, with the remainder to his nephew Thomas, but this only if Thomas properly performs the will of Tyrell's brother, Sir John. In fact, the instrument contains many detailed instructions concerning landholding arrangements that exist between Edward and John Tyrell. These provisions govern only the first and largest of six enfeoffments to use that Tyrell directs in his last will. Many contain instructions, such as in this one, designed to secure support and income for the feoffor's widow and daughters; as noted above, this is a common purpose of enfeoffments to use. In addition, this last will contains provision for servants—such as annuities from land and release from debts owed to the testator—for the building of Tyrell's tomb, and for disposal of a mill belonging to him. In addition to the many life-term benefits from the uses, Anne is also to have a London house and all Tyrell's plate and household goods and chattels. Near the end of the last will provision is made for "John my bastard sone," who receives some land and tenements. In closing, Tyrell expends considerable effort to guard against "diversies contraversies, debates and stryves" that he knows from his own experience can happen among executors. He recognizes that this often occurs because most of a testator's goods, chattels, and money are concentrated in the hands of some of the executors, while others have little; he proposes to prevent such problems by having everything gathered together in one agreed place. No one executor is to undertake any part of the administration without the assent of the others, nor shall any individual issue on his

own authority acquittances for Tyrell's debts due, without consultation with his fellows.

Of the 117 English-language testamentary instruments, twenty (17%) are last wills. Eleven are concerned solely with real property, while the remaining nine—of which Tyrell's is one—include additional provisions concerning chattels, money, and other matters.<sup>105</sup> There is, nonetheless, little that is consistent about the form of these instruments other than their abrupt quality. They display none of the formulaic detail of the testaments, with protocols often being as perfunctory as "This is the last will of Rauf Rochefort, Knyght," followed immediately by the specific arrangements. Occasionally they begin with a proper address patent—as befits an indenture, which is the general type of instrument they claim to be—such as "To alle trewe cristen men that this present writyng tripartite endented seeth or hereth," with the description of the document appearing later in the text.<sup>106</sup> The name of the testator usually appears near the beginning, while the dating clause may be found at either end of the document. Sometimes the last will is sealed and witnessed. Beyond these few necessities the bulk of the last will is its series of provisions. Perhaps because of the fluidity of its form the last will presented even less difficulty than the testament in the use of English in place of Latin in the composition of the document. If the *ultima voluntas* of John Pachet is any indication, these Latin instruments were essentially as formless as their English-language counterparts.<sup>107</sup> This instrument simply presents that it is the last will of Pachet and states the place and date of writing and that it concerns various lands, tenements, farms, rents, and services. After providing detailed directions for his feoffees to use concerning how they are to dispose of the property, the document ends, with no form of eschatocol whatsoever. This

<sup>105</sup> Alred, Arundel, Richard Beauchamp, Halsham, Malton, Marshall, Morstede, Poyninges, Radelyf, Rochefort, Walwayn; Fenys, Flore, Hanyngfeld, John Holland, Hotoft, Lowes, Mulso, Edward Tyrell, Whaplod. The irregular "appointment of will and governance" of John Broun is not included in this count of English-language last wills.

<sup>106</sup> Poyninges. Other examples are Alred, Arundel, Halsham, and Morstede. The mention in this example that people might well hear the provisions contained in this last will rather than see them by direct reading and comprehension could be taken as a further indication of the usefulness of composing such an instrument in English. No survey has yet been undertaken to see whether or not such a statement is to be found in Latin or French wills, but too much should not be made of the wording. Regardless of the language in which the documents were written, there must have been some mechanism by which the provisions set forth by testators in these various documents were made known orally in detail to executors, overseers, and administrators. The emergence of English-language instruments still represents an important shift towards direct access to wills by testators, yet this by no means implies that prior to this development testators lacked indirect access to them.

<sup>107</sup> *Reg. Chichele* 2:208–9, 20 October 1420, probate 10 November 1420.

correspondence, then, of loose format between Latin and English last wills may indicate an immediate adaptation of Latin form. While there are far fewer English-language last wills than testaments, it is worthy of note that all but two of the last wills were written after 1420, the date by which it has been suggested the English-language testament had become established in its form.<sup>108</sup> Perhaps the last will experienced a similar early stage of development, but the establishment of the English-language testament by the third decade of the fifteenth century may have promoted directly the use of the last will in an English form, hence its later appearance.

If we leave aside the question of the form of the will and return to that of why one would have chosen to use English rather than Latin or French in writing the instrument, another type of record can be of assistance. Private correspondence, as noted at the beginning of this essay, is similar to a will in that both are very personal documents, and while it is clear that the large number of Latin wills in the fifteenth century is due in large part to convention, there is, as with letters, some degree of choice in the selection of the language used. Helen Suggett, in her examination of the use of French in England in the later Middle Ages, deals with the nature of a considerable amount of private correspondence of the fourteenth and fifteenth centuries. Analyzing the letters of such notables as Eleanor of Provence, wife of Henry III, Philippa of Hainault, the Black Prince, and John of Gaunt, she argues that although in government departments convention largely determined the choice of the language used on particular occasions, "it cannot be argued from this that French was not the language which unofficial correspondents instinctively preferred throughout the fourteenth century"; by the turn of the century, however, the use of French or English was becoming a matter of personal preference, and for some people, "French was evidently a language of convention rather than of preference."<sup>109</sup> In the last years of the fourteenth century the Scottish earl of March sent four letters to the prior of Durham, two in French and two in English, and in 1400 he included this explanation of his writing in a letter to Henry IV: "And noble Prince mervaille yhe nocht that I write my lettres in Englishe, fore that ys mare clere to myne understanding than Latyne or Fraunche."<sup>110</sup> Another letter sent to Henry IV some three years

<sup>108</sup> Thomas Walwayn's last will, probably of 1415, presents an unusual protocol, addressing his feoffees strongly, yet indirectly: "The Wille of Thomas Walwayn to his feoffes of his londes yn euer place yn Engelond qwyche the forsaide Thomas requyreth his feoffes that they perfore as they wolle ansswere a fore God atte the day of dome."

<sup>109</sup> Suggett, "Use of French," 67-68 (quotation on 68).

<sup>110</sup> Ibid., 68 (with *letters*; corrected here from F. C. Hingeston, *Royal and Historical Letters During the Reign of Henry the Fourth*, vol. 1 [London, 1860], 24).

later shows Richard Kingston, dean of Windsor, having tremendous difficulty with a basic French introduction, as well as an interesting mixture of languages: "Jeo prie a la Benoit Trinite que vous otroie bone vie ove tresentier sauntee a treslonge duree, and sende zowe sone to ows in helth and properitee."<sup>111</sup> Overall, the evidence from letters indicates that the change from French to English took place at varying rates in various households, but Suggett does suggest that noble families and religious houses offered more resistance to the English vernacular than did the areas of society involved in commerce or the lower ranks.<sup>112</sup> Her observation accords with the findings noted earlier concerning French-language testators in the Chichele register, with the use of French remaining strongest in the high ranks of society.<sup>113</sup>

One example of letter writing is of particular interest to this study. The register of Llanthony Priory, Gloucestershire, contains entries from 1408 through 1436 and presents a good record of correspondence between the house and its patrons, one of the most faithful of whom was Anne, countess of Stafford. She has been mentioned already as one of the small number of testators who explain why they are using English; her testament of 1438 is written in English, she remarks, "for my most profit, redyng and undirstandyng." Until 1426 her letters to the prior are wholly in French. They deal with such diverse matters as Henry V's French campaigns, the progress of peace negotiations, and the king's proposed marriage, or offer

<sup>111</sup> Hingeston, *Royal and Historical Letters*, 158 (with *durre* for *duree* and *help* for *helth*; corrected here from Suggett, "Use of French," 69 n. 1).

<sup>112</sup> Suggett, "Use of French," 69.

<sup>113</sup> It is more difficult to suggest that French-language letter writing supports the finding from the Chichele register that the proportion of female testators using French is higher than the proportion using English. In studies of French language in late medieval England usually no significant differentiation is made between the sexes. Suggett herself draws but few conclusions of this sort. She queries the type of reading that noblewomen would have been able to do, concluding that they read for pleasure and spiritual edification and read the letters and petitions directed to them (74-75); she remarks that the "middle classes" used French for all but the most formal writing (76), and that wives of this social rank were capable of expressing themselves in French in their letters (76-77); and she concludes that the use of French in England was a true vernacular, "whose roots had penetrated deeply into all classes of English society who could read and write" (79). Orme remarks that children of both sexes among the aristocracy began their education with the acquisition of English and French languages, followed by the teaching of reading and writing in Latin, which training would serve as a basis for understanding texts written in the vernaculars; after this point, training diverged according to sex, with few women before the early sixteenth century practising more advanced literary skills, while young men proceeded to learn grammar (Nicholas Orme, "The Education of the Courtier," in *English Court Culture in the Later Middle Ages*, ed. V. J. Scattergood and J. W. Sherborne [London, 1983], 79-81; see also *idem*, *From Childhood to Chivalry: The Education of the English Kings and Aristocracy 1066-1530* [London, 1984], 121-28).

thanks for a gift and mention that her children are well. In that year there appear two English-language letters from the countess, but she continued to use French for nearly another decade.<sup>114</sup> Apparently Anne knew both French and English well, but by 1438 she was in the habit of using the latter more often and thus it became her testamentary language.

If this was the case for the granddaughter of Edward III, and if Suggett's observations concerning the general trend in the language of personal correspondence are correct, then it is not at all surprising to see English used increasingly for the writing of wills. Latin convention was still dominant in the first half of the fifteenth century, but this would begin to erode substantially from 1450. This was but part of the general rise of English in this period, but the group of 101 testators discussed here does add to the understanding of this process. These documents indicate that English was chosen to enable the testator to have a will written—or even on occasion to write a will—which he or she could understand and which would be immediately accessible to executors, beneficiaries, and agents. The continued strong presence of Latin wills along with these English instruments indicates that those in Latin were composed by professionals, writers with a good knowledge of the forms and formulae proper to such documents. Nonetheless, these wills were Latin formulary expressions of bequests and arrangements conceived and discussed in English—and perhaps in French at some levels of society through the first decades of the fifteenth century—for the quick adaptation of the standard Latin testamentary form indicates the development of a language of bequest, and perhaps also a conception of form in English, prior to the appearance of the English-language documents themselves.

<sup>114</sup> Public Record Office, London, C 115, K.2/6682. Anne's first English-language letters of 1426—there are two—are found at fol. 191r. Later English ones are at fol. 250v (1433) and fol. 259v (1435); the latter is followed on the same folio in the register by two of her French letters, dated the previous year, 1434. Other correspondents of the priory who use English include Humphrey, duke of Gloucester (fol. 178v, 1424), the earl of March and Ulster (fol. 178v, 1424), the duke of Bedford (fols. 200v–201r, 1426), Thomas Polton, bishop of Worcester (fols. 214v–215r, 1430; the letter closes with the remark “wreten in hast in oure Maner of Hillyngdon,” and perhaps pressing need and location in part account for the choice of language), and Henry VI (fol. 260r, 1435?). In response to Anne's gift in 1433 of “riche worthi and notable ornamentes” which are to ensure masses for her and her late husband, the priory shows not only an impressive mastery of the letter of thanks but a willingness to use the language, or languages, of its correspondents in its replies. The *captatio benevolentie* is especially fine, telling how the prior and convent are “iocunde gladde and ioifull to hire and knowe of þe gode welfare wirshippe prosperite and encrese of youre worthi and mooste honorable estate þe which almyȝty god of his grete and powerful grace and godenesse sende alway vn to yow aftir þe desire of yore owne gentill herte” (fol. 251r).

Perhaps there was as well an element of family solidarity and consistency in the choice of English as a testamentary language. In three remarkable instances a husband and wife have been found writing their wills in this language. At the highest levels of English society Dame Isabell, countess of Warwick, and her second husband Richard Beauchamp, earl of Warwick and of Aumale, produced English testamentary instruments: a testament of 1439 and a last will of 1437, respectively. Aside from the basic continuity in language—in itself important—there is little in the substance of the instruments to indicate close ties between them. Richard does not find any mention in Isabell's testament, which is much concerned with her exequies, gifts in goods, chattels, and money, and includes some brief mention of real property. Deeper ties between spouses are evident, however, at a lower social level. In 1444 Walter Lucy in his testament provided for his burial, either in the Abbey of Lessness, Kent, or the church of the Friars Minor in Worcester, and among much else he arranged for the repair of a house of nuns at Westwood under the supervision of his wife Alianore and on condition that the members of the house say a service yearly for them both. Alianore received half of Walter's goods and chattels if she did not remarry, and was to have a life term in several estates, with power to choose who was to have the remainder. She was also involved in the sale of other real property and was named as one of seven executors. Alianore was to be closely involved with the complexities of her husband's will and could presumably approach it directly, as it was written in English. Some eighteen months later, Alianore made her own testament and, following Walter's example and her own preference, used English. She disposed of a considerable amount of real property, and had feoffees in her own right, many of them probably subsequent to the provisions of her husband's will which required her involvement in a great deal of property management. She also tells us where Walter was buried, as she specifies for herself the Franciscan church at Worcester, in the same grave as Walter. Finally, Thomas Clanbowe's testament of 1410 provided for his burial with his ancestors at Yazor in Herefordshire, and that the residue of his goods not bequeathed go to his wife Peryne to do with as she wished, provided that all his debts were paid. In the codicil written at the same time there is a more touching concern displayed for his wife, for he entrusted Leonard Hekeluyt, "my beloued frend," with goods, "for gret trust that y haue in his socouryng and helpe of my wif at hire nede," and gives him a gilt cup, asking him "to be frendlich to my wif." John Wedmore is also given a gilt cup, "for the same cause." Peryne outlived Thomas by a dozen years, and apparently was secure enough and perhaps maintained such affection for

Thomas that she chose not to remarry; she asked to be buried at Yazor, "be my lord my housbond." Peryne was not nearly as involved in the provisions of her husband's will as was Alianore Lucy, yet the continuity between the spouses in their choice of a testamentary language may indicate a growing tendency, at least within families, to be consistent in their affairs. And Peryne was a reader, although in what language is unclear; she bequeathed to her priest "iiij quayres of Doctours on Mathewe."

The English-language testament and codicil of Richard Shipley, made in 1445, are apt instruments with which to close, as they demonstrate in unique fashion the several concerns that, as this essay has suggested, motivate the growth of testamentary instruments in English in the fifteenth century. Shipley is an unremarkable man, to judge by these documents, which are themselves standard of form and formulae, yet there is perhaps a sense of moderation in his provisions. His exequies are to be undertaken devoutly, but are not to involve outrageous expense. He is concerned for the poor, that his debts be paid, that the will of his father and mother be properly executed, and that his wife Alice and son John be provided for, and he includes recognition that Alice might well remarry. Further, she is nominated as sole executor, and in the course of stipulating this Shipley tells much about marital trust, affection and reliance, concern over the system of probate and, especially importantly, how the use of English in testamentary instruments could serve both ends. Alice is to administer his instructions according to her conscience, without giving any reckoning or account to the bishop or any ordinary or anyone else. She is to act on her own, and presumably she can do this because she can read and understand the documents, needing not even a professional writer to help her. And there is more here than simply distrust of probate.<sup>115</sup> Shipley's main reason is charmingly clear: "For y trust hir more than all the worlde after."

Richard Shipley was not only predisposed to turn to his wife as his most trusted companion; he felt both that he could do so because she would be able to act and that it was appropriate to take such a course. Of him we know nothing but what his testament provides us, yet it is likely that he was of the group in fifteenth-century English society whose members were especially, and increasingly, predisposed towards using the English language in making their wills: the middle country rank. It was among this group of rural men and women—of county knights and esquires, and their wives, widows, and daughters—that English saw its greatest advance as a testamentary language through 1450. The use that these people made of

<sup>115</sup> The question of whether or not Shipley's provision belies any broader anticlerical sentiment on his and his fellows' part cannot be pursued here.

English accounts in large part for the general growth in the use of the language for testamentary purposes from the 1380s. And within this rank of society Alice Shipley, while she herself has left no will for us to read, is representative of an especially important group, for it was women who were in the vanguard of testamentary English usage in this period. If Richard fully expected Alice to be capable of reading his testament and executing it, the analysis in this essay has shown that she might very well have produced her own English testamentary instruments, for the percentage of female testators who use English is greater than the percentage of male testators who use English. The main reason that men and women did this is deceptively simple, but it indicates a significant change in English society in the fifteenth century: people wanted both for themselves and for their executors direct access to the instruments, an access unencumbered by the necessity of Latinate, or even Francophone, intermediaries. Coupled with this motivation is the more general one of personal preference in language. Utility is a strong motive, but a predisposition towards English, as is evident from other records as well as these wills, played a role as well. Even family habit—for it is hard to speak of tradition over such a short time span—had some influence, as we have seen husbands and wives, such as Richard and Alice, extending their direct relationship even beyond the death of one spouse through the use of an understood, written language, and once this has begun in a family a precedent, if one not at all binding, is established. Finally, Richard Shipley's testament in its unremarkable quality, in its very normality, illustrates the adaptation of English to established, Latin testamentary forms and formulae. This was a remarkably easy process; by the early 1420s, both the English-language testament and last will had passed through a brief period of adaptation to become precise, clear instruments, ones that satisfied the demands of the law and the rigours of probate process. So by 1445, Richard and Alice Shipley were representative of their kind: average folk, taking care of their ultimate business in a manner that was both acceptable to their fellows and to the Church, and advantageous to them. Yet even with all these advantages, the best laid plans are sometime unfulfilled, and it is, perhaps, sad to note that were it not for what Richard tried to prevent—the probate of his will before the Canterbury commissary Master Alexander Prowet—we would not have the document to turn to our own use. It is nice to know, however, that Prowet did grant Alice the administration of Richard's will.

APPENDIX  
ALPHABETICAL LISTING OF ENGLISH-LANGUAGE TESTATORS<sup>116</sup>

Sources and Abbreviations:

- CW* = *A Collection of All the Wills Now Known To Be Extant of the Kings and Queens of England, Princes and Princesses of Wales, and Every Branch of the Blood Royal, from the Reign of William the Conqueror to That of Henry the Seventh Exclusive*, ed. J. Nichols (London, 1780; rpt. 1969).
- EEW* = *The Fifty Earliest English Wills in the Court of Probate, London*, ed. Frederick J. Furnivall, EETS, o.s., 78 (London, 1882; rpt. 1964).<sup>117</sup>
- Reg. Arundel* = London, Lambeth Palace Library. Register Thomas Arundel, 1396–1414.
- Reg. Brown* = London, Guildhall Library. London Bishops' Commissary Court, Registers of Wills, MS 9171/2.
- Reg. Chichele* = *The Register of Henry Chichele, Archbishop of Canterbury, 1414–1443*, ed. E. F. Jacob, 4 vols. (Oxford, 1938–47).

<sup>116</sup> The description of the documents—testament, last will, codicil—is based on the characteristics described on pp. 150–51. Where a last will is listed there is occasionally a term provided in parentheses; this is the description the instrument itself supplies. Additional biographical details for the testators in *Reg. Chichele* are from Jacob's "Notes on the Testators," 2:637–85, supplemented occasionally by the entries in the *Dictionary of National Biography*, 21 vols., ed. Leslie Stephen and Sidney Lee (London, 1908–9). Other sources appear in the notes.

<sup>117</sup> Furnivall's editorial techniques, such as they are, leave much to be desired. Often he does not bother, or forgets, to provide a complete reference to the manuscript from which he is working, so his references have been checked against the information provided in Smith's and Fitch's indexes (see nn. 8–9 above), and against the manuscripts where possible. Perhaps ironically it was to Smith that Furnivall dedicated his book. Often, the wills presented in this paper have been reedited and Furnivall's editions emended accordingly. Several of the wills in Furnivall's volume were reproduced in *A Book of London English*, 207–22, with little emendation: Averay, Broun, Corn, Girdeler, Plot, Pyncheon, Rogerysson, Solas, Yong. The probate notices are not provided in this volume, and occasionally the date of an instrument or of probate is erroneous. One testator not in Furnivall is represented (*ibid.*, 212: William Creswyk, Guildhall Hustings Roll 134 [105]), but only through an excerpt too brief and out of context to be of use in this study. It is, however, of interest for other reasons. The instrument, apparently a testament, is in Latin, and in the course of provision for a chaplain to say Mass for his soul and the souls of his wife and various relatives—including his mother and father, his brother and his wife's first husband—as well as for all parishioners and for everyone, living and dead, there is a specific instruction. Before the service begins, the chaplain is to turn to the congregation and address them in specific words, given in English: "For William soule Cresewyk and Alice his wif and for all these paresshins lyues and dedes and for all Cristen soules pater noster par charyte." The only other instruments provided in this section of *A Book of London English* are codicils to the testament of John Plot (*ibid.*, 212–14; see n. 161 below).

- Reg. Courteney* = London, Guildhall Library. London Bishops' Commissary Court, Registers of Wills, MS 9171/1.
- Reg. Langley* = *The Register of Thomas Langley, Bishop of Durham, 1406–1437*, ed. R. L. Storey, 6 vols., The Publications of the Surtees Society 164, 166, 169, 170, 177, 182 (London, 1956–70).
- Reg. Luffenham* = London, Public Record Office. Prerogative Court of Canterbury, Probate Registers, PROB 11/3.
- Reg. Marche* = London, Public Record Office. Prerogative Court of Canterbury, Probate Registers, PROB 11/2A, 2B.
- Reg. More* = London, Guildhall Library. London Bishops' Commissary Court, Registers of Wills, MS 9171/3.
- Reg. Rous* = London, Public Record Office. Prerogative Court of Canterbury, Probate Registers, PROB 11/1.
- Reg. Stafford* = London, Lambeth Palace Library. Register John Stafford, 1443–1452.

## ALRED, RICHARD

Esquire of Boreham, Essex.

Latin testament 8 May 1446.

Latin codicil n.d.

English last will (indenture) 26 April 1446. Made at Boreham, Essex.

Probate 13 March 1448.

*Reg. Luffenham*, fols. 275r–276v.

## ARUNDEL, JOHN 1408–35

Earl of Arundel and lord of Maltravers.

Latin testament 8 April 1430.

English last will (indenture) n.d.

Probate 15 February 1436.

*Reg. Chichele* 2:541–44, fols. 457v–458v.

## ASSHCOMBE, MARGARET

Widowed and possibly remarried; first husband John Bloncit.<sup>118</sup>

English testament n.d.

Probate 23 November 1434.

*Reg. More*, fol. 410v; *EEW*, 96–97.

## AVERAY, ROBERT

Of the Cordwainers' Company, London.

English testament 1 May 1411. Made at London.

Probate 30 May 1411.

*Reg. Brown*, fol. 200v; *EEW*, 16–17.

## BATHORPE, WILLIAM

Baron of the Exchequer.<sup>119</sup>English testament 21 October 1442 or 1443.<sup>120</sup>

Probate 6 November 1444.

*Reg. Luffenham*, fol. 258r–v.

<sup>118</sup> Bloncit could have been an alias for Asshcombe (MS: "my husbonde sumtyme called John Bloncit").

<sup>119</sup> Marginal note in MS.

<sup>120</sup> The date given is Monday next after the feast of St. Luke the Evangelist, 21 October 1442. The date and weekday agree only for the year 1443; in 1442 the Monday is 22 October. The favouring of the date of writing closer to the probate date is attractive but questionable. See n. 160 below for a comment on Furnivall's predilection for such a practice.

## BARNET, JOHN

Citizen and draper of London.  
English testament 16 April 1433.  
Probate 22 April 1433 or 1434.  
*Reg. More*, fol. 353r; *EEW*, 93–94.

## BATHE, JOHN

Burgher of Bristol.  
Latin testament 22 June 1420.  
Latin-English codicil n.d.  
Acquittance of executors 29 October 1421.  
*Reg. Marche*, fol. 408r–v; *EEW*, 45–47.

## BEAUCHAMP, JOAN 1375–1435

Lady of Abergavenny, widow of 1) Lord Grey, 2) William Beauchamp, lord of Abergavenny;<sup>121</sup> daughter of Richard II Fitzalan, earl of Arundel.  
English testament 10 January 1435.  
Probate 19 November 1435.  
*Reg. Chichele* 2:534–39, fols. 455r–456v.

## BEAUCHAMP, RICHARD

Earl of Warwick and of Aumale.<sup>122</sup>  
English last will (last will and declaration) 8 August 1437. Made at Camersham.<sup>123</sup>  
Probate 26 October 1439.  
*Reg. Rous*, fols. 146r–147r.

## BEAUCHAMP, WILLIAM

Knight, lord of Abergavenny.<sup>124</sup>  
English testament 25 April 1408.  
Made at Abergavenny, Wales.  
Probate 20 July 1411.  
*Reg. Arundel*, 2, fols. 155v–156v.

## BOKELAND, RICHARD

Esquire.  
English testament 5 August 1436.  
Probate 15 October 1436.  
*Reg. Luffenham*, fol. 162r–v; *EEW*, 104–8.

## BORTON, ROGER

Of Hackney, Middlesex.  
English testament 25 November 1434.  
Probate 7 December 1434.  
*Reg. More*, fol. 412r; *EEW*, 98.

## BOWES, LADY MAUD

Widow of William del Bowes, knight.  
Latin-English testament 17 January 1421. Made at Stretlame Hall, Durham.<sup>125</sup>  
Probate 13 September 1421.  
*Reg. Langley* 2:195–97, fol. 109r.

<sup>121</sup> See *infra*, s.v. Beauchamp, William.

<sup>122</sup> See *infra*, s.v. Warwick, Dame Isabell, countess of. In his commentary upon Dame Isabell's testament Furnivall gives Richard Beauchamp the title "Earl of Albemarle" (*EEW*, 116 n. 3), and the nomenclature is confusing. Beauchamp was created earl of Aumale after the capture of Aumale in the Normandy campaign of 1419 (*Dictionary of National Biography* 2:30, s.v. Beauchamp, Richard de, Earl of Warwick [1382–1439]), and this usage preserves the French form. But the title often appears in an Anglicized version of its Latin form, *Albamarula* (*Dictionnaire étymologique des noms de lieux en France*, ed. A. Dauzat and C. Rostaing [Paris, 1963], 37), and is of considerable lineage. William de Fortibus, earl of Albemarle (†1242), was the son of Hawise, countess of Albemarle, daughter of William le Gros, earl of Albemarle (†1179), son of Count Stephen. William de Fortibus was the last of the elder line of the lords of Albemarle representing Adeliza, neice of William the Conqueror (*Dictionary of National Biography* 21:367).

<sup>123</sup> MS form. *Dictionary of National Biography* 2:30 notes that he made his will at Caversham, Oxfordshire, 8 August 1435; this seems secure.

<sup>124</sup> See *supra*, s.v. Beauchamp, Joan.

<sup>125</sup> MS form. The *Dictionary of National Biography* 2:971 (s.v. Bowes, Sir William [1389–1460?]) describes this Sir William as the son of Sir Robert Bowes and Maude, lady of Dalden; he

BRAYBROOKE, SIR GERARD IV  
Knight.

English testament 12 March 1428. Made  
at Danbury, Essex.

English codicil 2 April 1429.

Probate 11 July 1429.

*Reg. Chichele* 2:409-14, fols. 411r-413r.

BROKE, THOMAS

Of Holditch, Dorset.

English testament 25 May 1415. Made  
at Holditch, Dorset.

Probate 5 February 1418.

*Reg. Marche*, fols. 316v-317r; *EEW*, 26-28.

BROOK, THOMAS

Knight, lord of Cobham.<sup>126</sup>

English testament 12 February 1439.

No probate.<sup>127</sup>

*Reg. Luffenham*, fol. 217v; *EEW*, 129-30.

BROUN, JOHN

Of the king's chamber.

Latin testament 4 May 1417.

Latin codicil 4 May 1417.

English "appoyntement of the wil and  
gouvernauns" 9 October 1418.<sup>128</sup>

Made at Rouen.

Probate 4 March 1421.

*Reg. More*, fol. 73r-v; *EEW*, 43-44.

BRUGES, WILLIAM

Alias Garter king of Armes.

English testament 26 February 1450.

Made at London.

Probate 12 March 1450.<sup>129</sup>

*Reg. Stafford*, fols. 186v-187r.

BURTON, THOMAS

Of Lightburcht.<sup>130</sup>

Latin-English testament 27 March  
1447.

Probate date uncertain; probably  
1447.<sup>131</sup>

*Reg. Luffenham*, fol. 222v.

CHARLETON, NICHOLAS

Citizen and skinner of London.

English testament 18 May 1439. Made  
at London.

had plans for rebuilding the manor house at Streatlam, near Barnard Castle, Durham. In her testament Maud makes several references to "Dalton," clearly names her late husband several times as William, and also describes another William de Bowes, knight (not, apparently, her son), son of Robert de Bowes (not, apparently, her husband), as well as William, "filius meus."

<sup>126</sup> Most likely in Kent. Suggesting possibly Surrey. Furnivall comments, "I once saw a friend pull out a 4lb. perch" (*EEW*, 129 n.2).

<sup>127</sup> The entry consists solely of the words "Probatum fuit." In the margin appears "acquietati sunt ven . . .," which Furnivall gives as "acquietati sunt vere"; this is not secure. From its location in the register the testament was entered in 1440.

<sup>128</sup> An interesting instrument, nuncupative and containing not only some bequests, but also provisions to be in effect immediately, not *post obitum*. For instance, the first stipulation is that his wife "be in the gouvernauns of here fadir and here moder" until he returns to England. Similarly, his brother Richard is to have some land from the profits of which he is to support his father, mother, and sister, again "vnto the tyme of the commyng of the forsaid John Broun." This quality is highly unusual in any testamentary document, the primary characteristic of which is that it function solely after the death of its principal. There is no indication that the court had any difficulty dealing with it.

<sup>129</sup> Dismissal of executors 12 April 1450.

<sup>130</sup> Unidentified; MS form.

<sup>131</sup> The last third of the testament is obliterated, along with almost all of the probate notice.

Probate 3 July 1439.

*Reg. Luffenham*, fols. 202v-203r; *EEW*, 112-15.

CHELMYSWYK, JOHN

Esquire of Shropshire.

English testament 4 April 1418.

Probate 13 November 1418.

*Reg. Marche*, fols. 335v-337r; *EEW*, 30-35.

CHEYNE, EDWARD

Esquire.

English testament 2 July 1415.

English codicil n.d. but *post* 1 July 1415, the date of a letter of gift of his goods and chattels to which this pertains.

Probate 18 October 1415.

*Reg. Chichele* 2:45-49, fols. 278r-280r.

CHICHELE, WILLIAM

Citizen and grocer of London, alderman, M.P., sheriff; elder brother of Archbishop Henry Chichele.

English testament 9 May 1426. Made at Stanwell, Middlesex.

Probate none.

*Reg. Chichele* 2:339-41, fols. 392v-393r.

CHIRCHE, ALICE

Widow, of St. Mary Hill parish, London.<sup>132</sup>

English testament 2 April 1430. Made at Twickenham, Middlesex.

Probate 16 February 1431.

*Reg. More*, fol. 262r; *EEW*, 85-86.

CLANBOWE, LADY PERYNE

Widow, of Yazor, Herefordshire.<sup>133</sup>

English testament 3 April 1422. Made at London.

Probate 18 November 1422.

*Reg. Marche*, fols. 429v-430r; *EEW*, 49-51.

CLANBOWE, THOMAS

Knight.

English testament 22 May 1410. Made at Hergest,<sup>134</sup> Herefordshire.

English codicil 22 May 1410.

Probate 14 June 1410.

*Reg. Arundel*, 2, fol. 50r-v.

CLINTON, LADY ELIZABETH ca. 1347-1423

Widow of 1) Sir John de Bermingham, 2) Robert, lord Grey of Rotherfield, 3) John, lord Clinton, and probably 4) Sir John Russell.

English testament 29 October 1422.

Probate 9 November 1423.

*Reg. Chichele* 2:266-69, fols. 366r-367v.

CORN, ROBERT

Citizen of London.

English testament 8 August 1387.<sup>135</sup>

Probate 14 March 1390.

*Reg. Courteney*, fol. 198v; *EEW*, 1-2.

CREDY, JOHN

Esquire.

<sup>132</sup> The residence is given in the register entry title.

<sup>133</sup> MS: *Jasore*, with the county given as Hertfordshire. No possible location in that county has been found. Note as well that her husband's testament was written in Herefordshire. See *infra*, s.v. Clanbowe, Thomas.

<sup>134</sup> MS: *Hergast*.

<sup>135</sup> The date is given as the Thursday before the feast of St. Laurence 1387, and it has been assumed here that the reference is to St. Laurence, martyr. Less likely is St. Laurence, archbishop (3 February), but if this were the intended memorial it would alter the date considerably, to 30 January 1388.

English testament 4 June 1426. Made at London.  
 Probate 8 June 1426.  
*Reg. Luffenam* fols. 46v-47r; *EEW*, 73-77.

DAUBENEY, GILES

Knight.

Latin-English testament 3 March 1445.  
 Made at South Petherton, Somerset.<sup>136</sup>  
 Archbishop's letter claiming jurisdiction because of *bona notabilia*, 15 January 1446.<sup>137</sup>  
*Reg. Stafford*, fols. 134v-135r.

DAUY, WILLIAM

Fishmonger and citizen of London.  
 English testament 27 November 1426.  
 Probate 4 December 1426 or 1427.  
*Reg. More*, fol. 228r;<sup>138</sup> *EEW*, 67-68.

DIXTON, RICHARD

Esquire.

English testament 8 August 1438.  
 Probate 21 October 1438.  
*Reg. Luffenam*, fols. 191v-192v; *EEW*, 108-12

DOVE, ISABELL

Widow of Thomas Dove, citizen of London.<sup>139</sup>

English testament 13 March 1425.<sup>140</sup>  
 Probate 4 May 1434.  
*Reg. More*, fol. 379v; *EEW*, 103.

ELMESLEY, ROGER

Former servant of John Bokeler, wax-chandler of London.

English testament 9 May 1434.<sup>141</sup>  
 Probate 18 May 1435.  
*Reg. More*, fol. 431v; *EEW*, 100-103.

ERPYNHAM, SIR THOMAS 1357-1428

Knight, privy councillor, marshal of

<sup>136</sup> MS: *Southpeterton*.

<sup>137</sup> Dismissal of executors 2 March 1446.

<sup>138</sup> Fitch, *Index*, gives fol. 178.

<sup>139</sup> Clearly she has been widowed, yet in the testament she directs that goods be kept "to the vse of the husbondes of the seyde Isabell, vnto his comyng home fro beyonde the See." Perhaps she has remarried, although the chance of her new husband having the same surname as her first seems unlikely, yet by no means impossible. Were her new husband a close relative, as the surname would imply, then a dispensation would have been needed for a marriage within prohibited degrees. This was the case for one of the present group of testators, Dame Isabell, countess of Warwick. Because of both the political importance of marriage alliances among great families and the transfer of landed wealth such unions could effect, such dispensations were much more a part of the marriage arrangements of the nobility than they were of London citizens.

<sup>140</sup> This date for the testament indicates that a great deal of time passed before Dove's death and the subsequent probate: over nine years, which is very unusual. Furnivall was unwilling to accept it, emending the manuscript to read 1434, which was foolish: this actually makes the date of writing 13 March 1435, merely a year after the probate date. The manuscript would seem to have been correct, after all. His concern was, perhaps, understandable. The document is remarkably brief and ad hoc. Perhaps Isabell was in fear of her life at the time and worked hurriedly, but there is no reason why these arrangements could not have served her well enough a decade later. Possibly she never revoked or superseded them, so they took effect, wanted or not.

<sup>141</sup> The manuscript date is complex but accurate for the day and month, yet the year of grace and the regnal year disagree. "At the fest of seynt Nicolas and the translacioun of seynt Andrewe, of bothe translacioun [transl. Nicholas: 9 May; transl. Andrew (to Scotland): 9 May] that is to sei the ix dai of Maij the yere of owre lord a thousand iiij hundred and xxxiiij [1434] And the reyn of our lege lord the kyng Harre the sexte of his conquest the xj yer [1433]."

England.  
 English testament 2 February 1428.  
 Archbishop's letter claiming jurisdiction  
 because of *bona notabilia* 4 July 1428.  
 Dismissal of executors 27 October 1428.  
*Reg. Chichele* 2:378–81, fols. 402v–403v.

FENYS, JAMES

Knight, lord of Saye and of Sele.<sup>142</sup>  
 Latin testament 12 April 1449.  
 English last will 12 April 1450.  
 Probate 22 June 1450.  
*Reg. Stafford*, fols. 190v–191r.

FITZHARRY, WILLIAM

English testament n.d.  
 Probate 8 September 1431.  
*Reg. More*, fol. 285v; *EEW*, 87–89.

FITZHUGH, ELIZABETH

Lady of Ravensworth; widow of Lord  
 Fitzhugh.  
 English testament 24 September 1427.  
 Latin codicil 10 December 1427. Made at  
 East Witton, Yorkshire.<sup>143</sup>  
 Probate 29 December 1427.  
*Reg. Langley*, 3:62–64, fol. 135r–v.

FLORE, ROGER

Of Oakham, Rutland.  
 Latin testament 15 April 1424.

English codicil to the testament along  
 with an English last will 18 April  
 1424.<sup>144</sup>

English codicil 26 October 1425.<sup>145</sup>  
 Made at Oakham.  
 Probate 20 June 1428.  
*Reg. Luffenham*, fols. 69r–72r; *EEW*,  
 55–64.

GILDEFORD, EDWARD

English testament 16 October 1448.  
 Probate 21 September 1449.  
*Reg. Stafford*, fol. 175v.

GIRDELER, JOHN

Of Harefield, Middlesex.  
 English testament 25 July 1402.  
 Probate 8 August 1402.  
*Reg. Brown*, fol. 21v; *EEW*, 10–11.

GRAY, RICHARD

English testament 7 March 1433.  
 Probate 31 March 1433.  
*Reg. More*, fol. 340v; *EEW*, 92–93.

GRAWELEY, RICHARD

Grocer of London.  
 English testament n.d.  
 Probate 25 January 1431.  
*Reg. More*, fol. 265v; *EEW*, 86–87.

<sup>142</sup> MS forms.

<sup>143</sup> MS: *Wytton*. Ravensworth is a manor in the North Riding of Yorkshire (see *The Victoria History of the County of York. North Riding*, ed. William Page, 2 vols. and index [London, 1914–25, rpt. 1968], 1:90); Elizabeth Fitzhugh is also associated with other manors in the North Riding: Lartington (1:122), East Tanfield (1:374), West Tanfield (1:386). Wytton is most likely East Witton, a manor next to—and at this time held by—the abbey of Jervaulx (1:283–84).

<sup>144</sup> While produced as part of the same writing, there are the two distinct sections to the instrument: the first part, the codicil, adds provisions to the testament concerning goods and chattels; the second part, the last will, deals with real property and especially uses. As for the date, the manuscript (in the last will) notes, “þe 3ere specefied in my said testament.” The two separate instruments must have travelled together (see following note).

<sup>145</sup> Flore remarks at the close of this codicil that all the instruments—testament, codicil, last will, codicil—have been joined together and sealed.

GREGORY, ISABELL

Widow of Hackney, Middlesex.<sup>146</sup>

English testament n.d.

Probate 10 January 1432.

*Reg. More*, fol. 296v; *EEW*, 91–92.

HALSHAM, HUGH

Knight.

Latin testament 7 February 1442.

English last will (writing) 10 February 1442.

Probate n.d. (†28 February 1442).

*Reg. Chichele* 2:608–11, fol. 483<sup>a</sup>r–v.

HANYNGFELD, WILLIAM

Esquire.

Latin testament 1 September 1426. Made at London.

English last will 4 September 1426.

Probate 22 September 1426.<sup>147</sup>

*Reg. Luffenham*, fol. 45r–v; *EEW*, 68–72.

HERON, WILLIAM

Knight.

Latin testament 30 October 1404.

English codicil n.d.<sup>148</sup>

Probate 12 December 1404.

*Reg. Arundel*, 1, fols. 219v–220v.

HETH, RALPH

Of Hackney, Middlesex.

English testament 6 December 1434.

Made at Hackney, Middlesex.

Probate 21 December 1434.

*Reg. More*, fol. 414r; *EEW*, 99–100.

HOLLAND, JOHN

Duke of Exeter.

English testament 16 July 1447.<sup>149</sup>

English last will 16 July 1447.<sup>150</sup>

Probate 16 February 1448.

*Reg. Stafford*, fols. 160r–161r; *CW*, 282–90: “Regist. Stafford and Kemp. fol. 160. a In the archiepiscopal registry at Lambeth” (289).

HOLLAND, THOMAS OF

Earl of Kent, lord Wake.

English testament 27 March 1397.

Probate 10 May 1397.

*Reg. Arundel*, 1, fol. 157r–v; *CW*, 118–19: “Register Arundell, pars prima

<sup>146</sup> Note of residence in register margin. While there is no husband mentioned in the testament, a daughter is named in the bequests.

<sup>147</sup> It seems to have taken quite some time to administer the will, as on 14 May 1437 one of the executors, John Basset, was sworn before the commissary and received the goods of the testator.

<sup>148</sup> The codicil was most likely written at the same time as the testament; the latter provides the following description: “volo et ordino quod executores mei subscripti ordinent et in omnibus exequantur integram voluntatem meam de omnibus et singulis bonis et catallis meis adeo plene et eodem modo sicut in vna cedula scribi feci et plenius declaravi.” The codicil does close with a Latin formulaic prayer, although this very brief element does not really qualify the document for consideration as a Latin-English instrument: “miseremini mei, miseremini mei, saltem vos amici mei, et cetera.”

<sup>149</sup> *CW* (289) provides an erroneous and contradictory date: 16 July 1447, 26 Henry VI [1448]. The manuscript correctly gives 25 Henry VI [1447].

<sup>150</sup> This instrument was part of the same writing as the testament, for Holland notes in the closing lines of the testament that his executors are to fulfil the provisions therein as well as those set forth in the schedule attached to it, that is, the last will.

fol. 157. a in the Archiepiscopal  
Registry at Lambeth" (119).

HOTOFT, JOHN

English last will 21 October 1438, or 22  
August 1439.<sup>151</sup> Made at London.

Probate 10 May 1443.

*Reg. Rous*, fols. 118v–119r.

JOHN, LOWES

Knight.

English testament 6 June 1440 or 1441.<sup>152</sup>

English last will n.d.

Probate 11 December 1442.<sup>153</sup>

*Reg. Rous*, fol. 108r–v.

KETRYCH, RICHARD

Grocer of London.

English testament 4 October 1447. Made  
at London.

Probate 13 March 1448.

*Reg. Luffenam*, fol. 275r.

LANGFORD, SIR WILLIAM

Knight.

Latin-English testament 24 August 1411.

Probate 1 October 1411.

*Reg. Marche*, fols. 187r–188r; *EEW*, 18–21.

LEVEDEN, ROGER

Merchant of St. Thomas parish, Bristol,  
Gloucestershire.

English testament 18 July 1447.

Probate 20 June 1448.

*Reg. Luffenam*, fol. 279r–v.

LUCY, ALIANORE

Widow of Sir Walter Lucy, knight.<sup>154</sup>

English testament 1 January 1446.

Probate 21 November 1447.

*Reg. Stafford*, fols. 156r–157v.

LUCY, WALTER

Knight.

English testament 18 July 1444.

Probate 5 February 1445.

*Reg. Luffenam* fols. 231v–232r.

LUMLEY, SIR JOHN

Latin testament 24 April 1418.

English codicil 19 August 1420. Made  
at Mylon.<sup>155</sup>

Probate 2 September 1421.

*Reg. Langley*, 2:191–94, fol. 108r–v.

MALTON, JOHN

Gentleman.

Latin testament 6 August 1447. Made  
at London.

English last will 7 August 1447.

Probate 25 August 1449.

*Reg. Luffenam*, fol. 274r–v.

MANGEARD, WALTER

Citizen and cook of London.

English testament 14 March 1434.

Made at London.

Probate 12 May 1434.

*Reg. More*, fol. 380r; *EEW*, 94–95.

MARSHALL, ROBERT

Grocer of London.

<sup>151</sup> The date depends on the understanding of "the feste of xi<sup>m</sup>l uirgines." C. R. Cheney, *Handbook of Dates for Students of English History* (London, 1970), notes 21 October according to the Black Book of the Exchequer, but 22 August according to university calendars.

<sup>152</sup> The date is obscure: June 1440 is certain, along with what is probably 19 Henry VI, which is 1441.

<sup>153</sup> The day is uncertain.

<sup>154</sup> See *infra*, s.v. Lucy, Walter.

<sup>155</sup> Unidentified; MS form.

English testament 25 May 1447.<sup>156</sup>

English last will 8 June 1447.<sup>157</sup>

Probate 30 June 1447.

*Reg. Stafford*, fols. 152r-154v.

MORSTEDE, THOMAS

Esquire, citizen, and surgeon<sup>158</sup> of London.

Latin testament 20 April 1450.

English last will (indenture) 20 April 1450.

Made at London.

Probate 8 June 1450.

*Reg. Rous*, fols. 89r-90r.

MULSHO, HENRY

Verderer, escheator, alnager, M.P.,  
member of the royal retinue.

English testament 1 June 1425.

Probate 31 August 1425.

*Reg. Chichele* 2:371-72, fol. 401r-v.

MULSO, THOMAS, SR.

Esquire of Little Newton, Northampton-  
shire.

Latin testament 12 March 1445. Made at  
Gretyngnam.<sup>159</sup>

English last will 20 May 1439.

Probate 13 February 1446.

*Reg. Stafford*, fol. 131r-v.

NEUTON, RICHARD

Knight.

English testament 28 November 1448.

Probate 3 February 1449.

*Reg. Stafford*, fol. 169r-v.

NEWENT, WALTER

English testament 28 June 1428. Made  
at London.

Probate 16 December 1428.

*Reg. Luffenham*, fols. 78v-79r; *EEW*, 83.

NEWLAND, WILLIAM

English testament 20 December n.y.<sup>160</sup>

Made at London.

Probate 18 July 1426.

*Reg. More*, fol. 170v; *EEW*, 65-66.

NORTON, THOMAS

Of St. Peter parish, Bristol,  
Gloucestershire.

<sup>156</sup> The date is given as 25 May 1446, 25 Henry VI [1447]. Since the last will begins with a reference to "the day and year abovesaid"—that is, the date of the testament—and this is changed by the end of the last will to 8 June 1447, it is probable that there is an error in the year of grace as given in the testament, and that it should have been 1447. It is unlikely that a whole year would have passed between commencing the writing of the last will and finishing it.

<sup>157</sup> See preceding note.

<sup>158</sup> MS: *cirurgicus*, for *chirurgicus*.

<sup>159</sup> Unidentified; MS form.

<sup>160</sup> The instrument nowhere gives a year of composition, and Furnivall supplied 1425 without explanation but apparently on the assumption that since the probate date was 18 July 1426, the testament must have been written at the earliest possible opportunity prior to this, which would have been 20 December of the previous year. This is a questionable practice but he does repeat it often in his edition and without explanation. While it can be shown from *Reg. Chichele* that the time between death and probate—not the time between the writing of the instrument and the death of the testator—was generally very brief, with about one half of the wills proved within a month (*Reg. Chichele* 2:xxxv), the time between composition and death could vary widely, from a few days to as much as six years in the case of John Bedford, duke of Lancaster (*Reg. Chichele* 2:585-88). Newland was making his testament prior to undertaking a journey (see p. 183 above) and while he may not, as he feared, have survived to return, alternately he may have come back whole and simply never destroyed, revoked, or superseded this instrument over what may have been several years before his death.

English testament 20 November 1449.

Made at Bristol.

Probate 16 February 1450.

*Reg. Stafford*, fols. 184v–185r.

OLNEY, JOHN

Of Weston Underwood, Bucks.

English testament 11 May 1420.

Probate 2 December 1422.

*Reg. Marche*, fol. 433r; *EEW*, 47–48.

PEVERE, THOMAS

Lord of Toddington, sheriff, escheator,

M.P., J.P.

Latin-English testament 4 November 1426.

English codicil 6 November 1426.

Probate 3 November 1429.

*Reg. Chichele* 2:418–19, fol. 414r.

PLOT *alias* ROUWENHALE, JOHN

Citizen and maltman of London.

English testament 4 July 1408.

English codicil 6 June 1407.<sup>161</sup>

English codicil 17 June 1407.

Probate 20 December 1408.

*Reg. Brown*, fols. 132v–133v, 138r;

*EEW*, 14–16.

POYNINGES, SIR THOMAS

Knight, lord St. John of Basing, J.P.

Latin testament 20 December 1428.

Made at Halfnaked.<sup>162</sup>

English last will 9 October 1428. Made at Halfnaked.

Probate 12 March 1429.

*Reg. Chichele* 2:387–90, fols. 405r–406r.

<sup>161</sup> The codicils are not printed by Furnivall and are found in *A Book of London English*, 212–14. It will be noted that both of them were written before the testament. The first makes reference to a “forsayde Testament” of Plot, so the one we now have must have superseded that earlier instrument. Yet it is strange that the codicils survived to be proved with the new document. There are several duplications in the specified beneficiaries: after his wife, he is mostly concerned for his servants and their families. There is little repetition in what each receives; instead, different items or sums are noted. What does change over the three instruments is the specification of executors. In the first codicil, John Konyesburgh is nominated, with Robert Pygeon to help; in the second, both are named, with Pygeon specified as overseer; in the testament, Konyesburgh has disappeared, leaving Pygeon solely in charge. The probate notice states that Pygeon was the sole executor.

<sup>162</sup> MS form; as the probate notice remarks, “in quodam loco vulgariter nuncupato Halfnaked.” *The Victoria History of Hampshire and the Isle of Wight*, ed. William Page, 5 vols. and index (London, 1900–1914; rpt. 1973), 4:411, provides a brief reference to such a place, and this as a mere mention of Halfnaked in the discussion of another place in an account from 1539. Sir Thomas and his family were, however, well known in the county. Between 1393 and 1400 he married Phillipa, daughter of Edward Mortimer and widow of John, earl of Pembroke (3:227); she brought with her the manor of Hook Valence (Titchfield Hundred). Warnford manor (Meonstoke Hundred) passed to Sir Thomas, who was seised of it at his death in 1429 (3:269). His only son Hugh died in 1426, leaving Hugh’s three daughters Joan, Constance and Alice as coheirs; Warnford passed to Alice, who married first John Orell, then Sir Thomas Kyngeston. Various other Hampshire manors were also passed down through the granddaughters: Basing (4:115–16: here Sir Thomas’s death is given as 1428; Constance’s husband is named as John Paulet and Joan’s husband as John Bonville), Bramley (4:141), and Sherborne St. John (4:159: this manor was to be held first by Sir Thomas’s widow Eleanor, then by Alice) in Basingstoke Hundred; Abbotstone in Bountisborough Hundred (4:193: Constance’s son bought out the other heirs); Amport (4:337) and Thruxton (4:388) in Andover Hundred; Pamber in Barton Stacey Hundred (4:433).

PYNCHION, JOHN

Citizen and jeweller of London.

French-English testament 20 September 1392.

Probate 9 October 1392.

*Reg. Courteney*, fol. 263r-v; *EEW*, 3.

RADCLYF, SIR JOHN

Knight of Chadderton in Oldham, Lancashire.

English testament 20 May 1436. Made at Winchelsea, Sussex.

English last will (will and intent) n.d.

Probate 31 October 1436.

*Reg. Chichele* 2:546-47, fol. 459r-v.

ROCHEFORT, RALPH

Knight.

Latin testament 26 March 1439. Made at his manor of Fenne.<sup>163</sup>

English last will 12 March 1440.<sup>164</sup>

Probate 19 May 1440.

*Reg. Luffenam*, fols. 215v-217r; *EEW*, 120-28.

ROGERYSSON, JOHN

English testament n.d.

Probate 1 February 1420.

*Reg. More*, fol. 50v; *EEW*, 41-42.

ROOS, RICHARD

English testament 1 June 1406.<sup>165</sup> Made at London.

Probate 10 June 1406.<sup>166</sup>

*Reg. Brown*, fol. 75v; *EEW*, 12-14.

SALWAYN, SIR ROGER

Knight.

English testament 26 October 1420.

Probate 7 March 1423.

*Reg. Marche*, fols. 437v-438r; *EEW*, 52-54.

SANDWYK, HARRY VAN

English testament 22 November 1430.

Probate 29 November 1430.

*Reg. More*, fol. 258v; *EEW*, 84.

SAYKYN, ROBERT

Draper of London.

English testament 20 September 1444.

Probate 20 November 1444.

*Reg. Luffenam* fol. 230r-v.

SCHAPMAN, ROBERT

Latin-English testament 1 November 1428. Made at Hornsey, Middlesex.

Probate 8 November 1428.

*Reg. More*, fol. 203v; *EEW*, 80.

SHIPLEY, RICHARD

English testament 26 January 1445.

English codicil n.d.

Probate 3 June 1445.

*Reg. Luffenam*, fols. 250v-251r.

<sup>163</sup> Unidentified; MS form.

<sup>164</sup> Nuncupative document.

<sup>165</sup> This is the year Furnivall supplies, through emendation of the manuscript: "the [vij] yere of Kyngye Harry the fourth" (*EEW*, 12), once more based upon the greatest proximity to probate. It is not secure.

<sup>166</sup> Interestingly, by 10 August 1409 probate had not been completed, for on that date the London commissary granted administration to Thomas Roos, one of three executors nominated in the testament; the other two—Maude (Richard's widow) and John Talbot, granted administration with Thomas in 1406—do not appear.

SHIRINGTON, WALTER

Priest.

English testament 16 January 1448.

Made at the manor of Bernes.<sup>167</sup>

Probate 14 February 1449.

*Reg. Stafford*, fols. 170r–171v.

SOLAS, JOHN

Of Southwark, Surrey.

English testament 12 July 1418. Made at

Southwark, Surrey.

Probate 22 July 1418.

*Reg. Marche*, fol. 329r–v; *EEW*, 28–29.

STAFFORD, ANNE, COUNTESS OF

1383–1438

Widow of 1) Thomas, third earl of Stafford, 2) Edmund, fifth earl of Stafford, 3) William Bourchier, count of Eu; granddaughter of Edward III, daughter and heir of Thomas Plantagenet, sister and heir of Humphrey Plantagenet, earl of Buckingham.

English testament 16 October 1438.

Probate n.d. (†16 October 1438).

*Reg. Chichele* 2:596–97, fol. 479r.

SUTTON, JOHN

English testament n.d.

Probate 19 November 1419.

*Reg. Chichele* 2:164–65, fol. 323r.

THOMAS, STEPHEN

Of Lee, Essex.<sup>168</sup>

Latin testament 8 May 1417. Made at Lee, Essex.

English testament 7 May 1417. Made at Sandwich, Kent.

English codicil 30 January 1418 or 29 January 1419.<sup>169</sup> Made at Rouen.

Probate 20 July 1419.

*Reg. Marche*, fols. 358r–359r; *EEW*, 37–41.

THORNTON, ROGER, SR.

Of Newcastle upon Tyne,

Northumberland.

English testament 22 December 1429.

Probate 19 January 1430.

*Reg. Langley* 3:164–67, fols. 163r–164r.

THROKMARTON, JOHN

English testament 12 April 1445.<sup>170</sup>

Made at London.

Probate 19 April 1445.

*Reg. Luffenham*, fol. 248r–v.

TOKER, JOHN

Citizen and vintner of London.

English testament 6 August 1428.

Made at London.

Probate 3 September 1428.

*Reg. More*, fol. 202v; *EEW*, 77–79.

TOLYMONDE, WILLIAM

English testament 16 May 1448. Made at Lambeth, Surrey.

Probate 5 May 1449.

*Reg. Stafford*, fols. 171v–172r.

TVOKY, THOMAS

Esquire.

<sup>167</sup> Possibly Berne, Dorset.

<sup>168</sup> MS: *Lye* (Latin), *Lee* (English). Furnivall suggests Lee (St. Clement), usually known as Leigh or Leigh on Sea, Essex. Possibly West Lee, Essex.

<sup>169</sup> The date is given only as Sunday next before Purification of the Blessed Virgin.

<sup>170</sup> This is an interesting and extensive testament, largely because Throkmarion has to make provision for six married daughters, as well as two sons.

English testament n.d.<sup>171</sup>

Probate none.

*Reg. Marche*, fols. 346v-347r; *EEW*, 36-37.

TYRELL, EDWARD

Esquire, escheator, sheriff, M.P., of Dunham, Essex.

English testament 1 October 1442.

English last will 9 December 1442. Made at Dunham, Essex.

English codicil 14 December 1442.

Probate none (†17 December 1442).

*Reg. Chichele* 2:628-36, fols. 488v-490v.

TYRELL, RICHARD

Esquire.<sup>172</sup>

English testament 26 May 1431. Made at Stoke d'Abernou, Surrey.<sup>173</sup>

Probate 10 July 1431.<sup>174</sup>

*Reg. Luffenham*, fol. 106v; *EEW*, 89-90.

WALWAYN, THOMAS

Esquire, of Herefordshire.

Latin-English testament 12 March

1415.

Latin codicil 9 May 1415.

English last will n.d.

Probate 20 May 1415.

*Reg. Marche*, fols. 253r-254r; *EEW*, 22-26.

WARWICK, DAME ISABELL,

COUNTESS OF

Widow of 1) Richard Beauchamp,

lord Abergavenny, earl of Wor-

cester (†1422), 2) Richard Beau-

champ, fifth earl of Warwick, earl

of Aumale (†1439);<sup>175</sup> daughter of

Thomas Despencer, second baron

Despencer, earl of Gloucester;

mother of Henry, duke of Warwick.

English testament, 1 December 1439.

Made at London.

Probate 4 February 1440.

*Reg. Luffenham*, fols. 212v-213r; *EEW*, 116-19.

WEST, LADY ALICE

Widow, of Hynton Marcel.<sup>176</sup>

<sup>171</sup> Furnivall provides a date of 1418, presumably from the placement of the entry in the register, but this is wrong: 1419 would be the correct suggestion. The testament simply stops after a number of bequests, with the remainder of fol. 347r left blank.

<sup>172</sup> Marginal note in register.

<sup>173</sup> MS: *StokDabernoun*.

<sup>174</sup> Acquittance of executors 24 September.

<sup>175</sup> See *supra*, s.v. Beauchamp, Richard. As Dame Isabella had been married to his cousin the earl of Worcester, the earl of Warwick had to obtain papal dispensation for their marriage. See *Dictionary of National Biography* 2:31, s.v. Beauchamp, Richard de, Earl of Warwick (1382-1439).

<sup>176</sup> MS form; perhaps Hinton Martell, Dorset, but possibly Hinton or Hinton Admiral, in Christchurch Hundred, Hampshire (*Victoria History of Hampshire and the Isle of Wight* 5:95). While there is no mention of the testator or her family in these entries, Lady Alice did provide in her testament that she be buried in Christchurch Priory, and she was very active in Hampshire. Thomas West bought the manor of Oakhanger in Selborne Hundred, and when he died in 1356 it was entailed on himself, his wife Alice, and their heirs; Alice died seised in 1395 and her son Thomas was her heir (3:11). One quarter of the fee of the Manor of Winkton in Christchurch Hundred descended to Alice, and she died seised of a half, which passed to Thomas (5:99). In his will of 1405, Sir Thomas West directed that he was to be buried in the new chapel of Christchurch Priory, where his mother Alice was buried (2:158). The present Lady Chapel in the Priory has been identified as this new chapel; two tombs, one north and the other south of the

English testament 15 July 1395. Made at  
Charlton, Middlesex.<sup>177</sup>

English codicil n.d.

Probate 1 September 1395.

*Reg. Rous*, fols. 29v–31r; *EEW*, 4–10.

WHAPLOD, WILLIAM

Gentleman, of Chalfont St. Giles,  
Buckinghamshire.

English last will 5 June 1447.<sup>178</sup> Made at  
Chalfont St. Giles, Buckinghamshire.

Latin testament 14 November 1447.

Probate 27 November 1447.

*Reg. Luffenam*, fols. 244v–245r.

WHYTEMAN, RICHARD

Citizen and waxhandler of London.

English testament 22 January 1429.

Probate 20 February 1429 or 1430.  
*Reg. More*, fol. 209r; *EEW*, 81–83.

WYNTER, JOHN

Esquire.

English testament 20 May 1445.

Latin last will 30 May 1445. Made at  
the Carmelite House, Fleetsteet,  
London.<sup>179</sup>

Probate 10 July 1445.

*Reg. Luffenam*, fols. 252v–253r.

YONG, RICHARD

Brewer of London.

English testament 1413.

Probate 30 September 1413 or 1414.

*Reg. Brown*, fol. 263r; *EEW*, 21–22.

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altar, have been associated with Thomas and Alice respectively, yet there is no heraldry or inscription and the tombs are not earlier than the first quarter of the sixteenth century (5:101–2).

<sup>177</sup> MS: “This was yeve and writen in the lordes ln of Cherlton withoute Newgate in the parosch of seynt sepulcre in the suburbe of london.”

<sup>178</sup> An interesting document, especially so since it was written before the Latin testament. While its content is almost wholly the real property concerns of a last will, its opening form is that of a testament, with an invocation, name and date, commendations of soul and body, and a gift to the church. These provisions were modified in the Latin testament, but none of the real property directives were superseded.

<sup>179</sup> MS: “fecit condidit et ordinavit ultimam voluntatem suam nuncupatiuam.”

## VERNACULAR ARGUMENTATION IN *THE TESTIMONY OF WILLIAM THORPE*

Fiona E. Somerset

**E**VEN while claiming not to be “curious” and “sotil” like the “sofestriss” it deplores,<sup>1</sup> the Wycliffite *Testimony of William Thorpe* makes extensive use of terminology and techniques of argument familiar from medieval academic disputation. Nor is it unique in this respect; late medieval English works that deploy anticlerical satire, social complaint, or reformist polemic frequently display some degree of academic sophistication even as they distance themselves from the conventions of academic interchange.<sup>2</sup>

<sup>1</sup> *The Testimony of William Thorpe*, 1407, in *Two Wycliffite Texts*, ed. Anne Hudson, EETS, o.s., 301 (Oxford, 1993), 55, lines 1033–37. Until recently available only in a modernized version (“The Examination of Master William Thorpe,” in *Fifteenth Century Prose and Verse*, ed. Alfred W. Pollard [Westminster, 1903], 97–167), and a facsimile of the 1530 printed edition (STC 24045[A] [Amsterdam and Norwood, N.J., 1975]), the *Testimony* has been newly edited from the early fifteenth-century manuscript, Oxford, Bodleian Library Rawl. C.208. Hereafter parenthetical references will be used citing the page and line numbers in the 1993 edition.

<sup>2</sup> I examine a range of works produced between the 1370s and ca. 1410 in which what had previously been peculiarly academic terms and modes of argumentation are transferred to new prospective audiences, and often to the vernacular, in “Imaginary Publics: Extraclergial Writers and Vernacular Audience in Late-Medieval England” (Ph.D. diss., Cornell, 1995). By no means all of these works are Wycliffite or anti-Wycliffite, although many of them are. Included among them are translations into English of earlier polemic (for example Trevisa’s translations of the pseudo-Ockham *Dialogus inter militem et clericum* and of Richard Fitzralph’s *Defensio curatorum*), and of controversial contemporary writings (such as the Wycliffite translation and adaptation of the first twelve chapters of Wyclif’s *Dialogus*, the “Dialogue between Reson and Gabbyng” [Dublin, Trinity College 245, fols. 153v–160r; edited by Briar E. R. Gordon in “Four Lollard Dialogues: An Edition with Commentary” (Ph.D. thesis, Otago, 1985), unfortunately unavailable outside New Zealand; I am currently editing all four dialogues with commentary for EETS. See further below at nn. 13, 69, 78, 87]); vernacular literary compositions such as *Piers Plowman* or the *Upland* series; Latin writings that invoke a new, wider audience such as several of Wyclif’s works, or Roger Dymmok’s *Liber contra duodecim errores et hereses Lollardorum*; and a large number of tracts in English apparently designed for dissemination to a wider audience, including many of those printed by T. Arnold and F. D. Matthew in their collections of English works supposedly by Wyclif, but also others more recently printed or as yet unedited (some of the more important examples are cited below, nn. 3, 8, 12, 13, 14, 54, 61, 67, 69, 74, 77, 78). Two especially important vernacular tracts not cited here, but soon to be published in an edition by A. Hudson, are the extended sermon *Omnis plantacio* and the *Tractatus de oblatione iugis sacrificii*. Reginald Pecock’s vernacular writings against the Lollards should also be mentioned: see especially the *The Repressor of Over Much Blaming of the Clergy*, ed. Churchill Babington, Rolls Series (London, 1860).

These texts are directed, explicitly in their terms of address and often implicitly by virtue of being written in the vernacular, outside the university: they aim (or so they claim) to make their arguments available to a wider audience which lacks academic sophistication—however broadly or narrowly that audience might be conceived.<sup>3</sup> It is easy enough to see why the clerics writing these texts would want to address an outside audience: amid turbulent politics, beset by widespread anticlerical and antifraternal feeling and by divisions within the church at home and abroad, it must have seemed ineffective or at the very least insufficient to appeal to the common tradition of a unified church or to the authority of the pope—particularly for those, like Thorpe, who rejected that tradition and authority altogether. It also makes sense that these writers disavow clerical methods: in order to be understood by their new audience they would obviously need to abandon the “curious” and “sotil” style of expression used among highly educated academics. But it remains a question why in addressing this new audience these writers retain the abstruse methods of the schools even as they also disavow them; when argument is transferred from Latin scholastic *quaestiones* to English polemic, from a narrow university milieu to a wider debate, why it brings with it the terminology of not only theology (the subject broadly at issue) but logic, natural science, and speculative philosophy, as well as the peculiarly specialized techniques of disputation and exposition developed in the academic pursuit of those disciplines.

We might be tempted by the suspicion that in these texts there is no consideration of the new audience whatever; that their academic writers are merely continuing with business as usual—arguing with other academics—and gesturing toward an outside audience which serves as nothing more than a convenient source of assent to their arguments. This is certainly part of the answer, and in some cases nearly all of it. But there are reasons not to be satisfied with this easy dismissal. It was not easy to be complacent about the potential reaction to popular appeals in late fourteenth- and early fifteenth-century England. The restrictions on preaching

<sup>3</sup> William Swinderby’s “allegaciones” sweepingly assert the obligation of anyone “qui scit unum evangelium vel unum veritatis exemplum” to preach “quidquid scit . . . omnibus semper ubique masculis et feminis, senibus junioribus, ditissimis pauperibus, in prosperitate in adversitate, die nocte, mane meridiē ac vespere, in ecclesia, in platea, in via, in agro, in terra, in mari . . .” (*Registrum Johannis Trefnant*, ed. William W. Capes, The Canterbury and York Society 20 [London, 1916], 259; the *allegaciones* [so titled and ascribed to Swinderby and his followers on 257–58] appear between sections of Swinderby’s written defense). At the other extreme Roger Dymmok’s anti-Lollard treatise projects a lay audience of one: he addresses the king in the *Epistola* to his *Liber contra duodecim errores et hereses Lollardorum*, ed. H. S. Cronin (London, 1922), 3–10.

to the laity in Arundel's *Constitutiones* of 1409 reflect, but certainly do not inaugurate, rising concern for the consequences of communicating new sorts of knowledge to lay people.<sup>4</sup> We have evidence, too, that even some of the more inhospitable of these texts were taken up by persons outside the traditional academic audience and put to unexpected uses. Episcopal records of testimony in heresy trials—though often indicating clerical concern as much as, or more than, popular response—describe the activities of lay people who have educated themselves by means of unauthorized books and teachers, while texts composed, compiled, or altered from their orthodox versions by writers literate in the vernacular give direct evidence of knowledge being turned to new purposes.<sup>5</sup> Furthermore, the blanket dismissal would not only ignore reasons why these writers could scarcely have made popular appeals and written in the vernacular simply in order to argue among themselves, but it would also obscure the range of uses to which academic erudition is put in these texts, and of expectations about the response and even the capabilities of the audiences they envisage: texts may import the authority of academic discourse largely to bedazzle their new audience, or in order to impart knowledge, or perhaps even to teach them to argue and interpret for themselves; they may exhort the audience to action, advise them, or appeal to their judgement; they may

<sup>4</sup> Arundel's *Constitutiones* are printed in D. Wilkins, ed. *Concilia Magnae Britanniae et Hiberniae*, 4 vols. (London, 1737), 3:314–19; see esp. 317. Writings of the later fourteenth and early fifteenth centuries are rife with apprehensions about the people's potential reactions to information. The published works of M. Aston and A. Hudson have documented how this concern about information affected Wycliffism: see especially Margaret Aston, "Lollardy and Sedition, 1381–1431" and "Lollardy and Literacy," in *Lollards and Reformers: Images and Literacy in Late Medieval Religion* (London, 1984), 1–47 and 193–217, and "Wycliffe and the Vernacular," in *Faith and Fire: Popular and Unpopular Religion, 1350–1600* (London, 1993), 27–72; and Anne Hudson, "Lollardy: The English Heresy?" in *Lollards and Their Books* (London, 1985), 141–63, as well as "Wyclif and the English Language," in *Wyclif in His Times*, ed. Anthony Kenny (Oxford, 1986), 85–103. Hudson places Wycliffism in a broader context of concern about the dissemination of knowledge in "The Context of Vernacular Wycliffism," chap. 9 of *Premature Reformation: Wycliffite Texts and Lollard History* (Oxford, 1988). Ralph Hanna III also takes a wider view in "The Difficulty of Ricardian Prose Translation: The Case of the Lollards," *Modern Language Quarterly* 51 (1990): 319–40, while examining worries expressed by Arundel and other clerics about the consequences of translating the Bible into the vernacular; Hanna's remarks about one variety of "Lollard hermeneutic" (336–37) confirm and reveal a wider application for my interpretation of Thorpe's theory (pp. 214–15 below). Nicholas Watson examines the broader reaching effects of Arundel's *Constitutiones* on vernacular theological writing in the fifteenth century in "Censorship and Cultural Change in Late-Medieval England: Vernacular Theology, the Oxford Translation Debate, and Arundel's Constitutions of 1409," *Speculum* 70 (1995): 822–64.

<sup>5</sup> On the tendency of heresy trial testimony to reflect question lists administered by examiners, see Anne Hudson, "The Examination of Lollards," in *Lollards and Their Books*, 125–40. On Lollard use of books, see Hudson, *Premature Reformation*, 103–10 and 200–217.

anticipate blind violence, agreement, or reasoned decision.

Because there is such a broad range of uses and expectations of vernacular argument addressed to lay people, my discussion of Thorpe's *Testimony* cannot explain how this intriguing disjunction between argument and audience operates in all the texts where it appears. By exploring what it accomplishes in the *Testimony*, however, I can begin to show why it is worthy of extensive further investigation. Where late medieval English writers make claims for their own learning or the learning they expect of their audience, and most especially where they employ the terms and methods of Latin academic argument in new, and particularly vernacular, contexts, their claims may not necessarily be taken at face value. But examining the mismatches between their projections and their methods can instead help us to see why and how these sorts of claims are important. For the moment, I mean to show that in Thorpe's *Testimony* method and aims are not as opposed as they may at first appear.

The *Testimony* presents itself as an account written by Thorpe of his examination before Arundel and three clerks. There is no extant record of such an examination having taken place, and the account is strongly biased in Thorpe's favour.<sup>6</sup> However, patently the text's value is not as a record of actual procedure but as a representation of ideal, even exemplary, steadfastness in adversity; one which some Wycliffites thought worthy of translation, transport to Bohemia, and dissemination and conservation sufficient at least to preserve the text for printed publication in 1530.<sup>7</sup> Like many a martyr or heretic on trial, Thorpe models his present predicament on Christ's passion and his dissenting activity more generally on Christ's mission.<sup>8</sup> Thorpe's steadfastness is not, however, the silently enduring variety common among martyrs.<sup>9</sup> Instead, Thorpe's "crucifixion" is through argument: "as a tree leyde vpon anoper tree ouerthwert on crosse wyse, so weren þe Archebisshop and hise þree clerkis alwei contrarie to me and I to hem" (93.2245–47). Thorpe wins through by means of better arguments and more adept maneuvering; in the course of the *Testimony*, he manages

<sup>6</sup> This is not, of course, to say that the examination did not in fact occur; see Hudson's comments on the historicity of the text in *Two Wycliffite Texts*, xlv–xlvii.

<sup>7</sup> For details of the Latin and English manuscripts in England and Bohemia and of the early printing, see *ibid.*, xxvi–xlv.

<sup>8</sup> For another Wycliffite writer who models his prosecution for heresy on Christ's passion, see Richard Wyche's account of his sufferings in gaol in "The Trial of Richard Wyche," ed. F. D. Matthew, *English Historical Review* 5 (1890): 530–44. On Thorpe's comparison of his teaching mission with Christ's, see especially *Testimony*, 45.694–703.

<sup>9</sup> Thorpe does maintain a (verbosely reported) silence between 36.410 and 37.434, but refusal to speak is not on the whole his preferred tactic.

to profess his Wycliffite belief in some detail while evading both the charges brought against him and Arundel's demands that he grant or deny orthodox statements.

Thorpe rejects the authority of the institutional clergy of the established church<sup>10</sup> and insists instead on grounding his arguments in the authority of *clergie* in the sense of "learning."<sup>11</sup> The terms he uses to defend Taylor's sermon neatly encapsulate his paradigm of "clergial" clerical grounding:<sup>12</sup>

bi þe autorite of Goddis word and bi appreued seyntis and doctours and bi  
opin resoun þis clerk prouede clereli alle þingis þat he þere prechide  
(85.1975–77).

For those unfamiliar with Wycliffite polemic, this trio of authorities deserves some amplification. The authority of the pair *opin resoun* and *Goddis word* is approved three times in the *Testimony* and frequently in other Wycliffite writings;<sup>13</sup> it was also noted by their contemporary oppo-

<sup>10</sup> See 51.896–52.917, where Thorpe affirms that he wishes to be governed by "holi chirche" but then, at Arundel's prompting, admits that in his view "holi chirche here in erþe" is not the established church. This method of rejecting the church's authority appears frequently in Wycliffite writings; see the list of examples in Hudson's note on this passage (116–17).

<sup>11</sup> See the *Middle English Dictionary*, ed. Hans Kurath et al. (Ann Arbor, Mich., 1952–) [hereafter *MED*], s.v. *clergie*, n. (3); note also that *clergie* can be applied to groups of learned men regardless of whether they are of clerical status (see *ibid.* [1c]). In addition, of course, the word is used to designate the clergy as opposed to the laity, the clergy as a political class, and clerical status (see *ibid.* [1 and 2]). M. T. Clanchy has examined the abiding resilience of the notion that clerics are educated and laymen illiterate in *From Memory to Written Record: England 1066–1307*, 2d ed. (Oxford, 1993), esp. 226–30. The range of meaning for both *clergie* and *lewed* in Middle English includes status-linked senses and also senses in which the word designates an attribute conventionally—but not always in practice—linked to the status. For the "fracture" between status-linked and attribute-designating senses of *clergie* evidenced in texts of the "new anticlericalism," see Wendy Scase, "*Piers Plowman*" and the New Anticlericalism (Cambridge, 1989), 40–46. For implications of the use of *clergie* to describe new realms of knowledge, the "new clericalism," see Andrew Galloway, "*Piers Plowman* and the Schools," *The Yearbook of Langland Studies* 6 (1992): 89–107.

<sup>12</sup> I am accepting Hudson's identification of the "clerk" Thorpe refers to here as William Taylor and her argument that the sermon by William Taylor in Oxford, Bodleian Library Douce 53 (printed in *Two Wycliffite Texts* along with the *Testimony*) is the sermon Taylor preached at St. Paul's Cross. See Hudson, *Premature Reformation*, 13–14, and *Two Wycliffite Texts*, xiii.

<sup>13</sup> The pair appears in the *Testimony* at 33.319–20 and 37.430 in addition to the passage quoted above, and it appears elsewhere in Wycliffite texts, to give just a few examples, in *The Lanterne of Light*, ed. Lilian M. Swinburn, EETS, o.s., 151 (London, 1917), 117; the epilogue to a commentary on Matthew printed in Margaret Deanesly, *The Lollard Bible and Other Medieval Biblical Versions* (Cambridge, 1920), 457–61 *passim* and esp. 458; "De Pontificum Romanorum schismate," in *Select English Works of John Wyclif*, ed. Thomas Arnold, 3 vols. (Oxford, 1869–71), 3:242–66 at 251; *English Wycliffite Sermons*, vol. 2, ed. Pamela Gradon (Oxford, 1988), 86.108–10 and 188.59–70; the "Dialogue between Reson and Gabbyng" (Dublin, Trinity College 245, fols. 153v–160r at fol. 159r); and the "Dialogue between Jon and Richerd" (Cambridge, Trinity College B.14.50, fols. 35r–55v at fol. 36v). (There is, of course, some minor variation among these examples in the terms used to denote *resoun* and *scripture*.)

nents: "haec regula est Lollardorum: hoc non habetur ex sacra scriptura, neque ex ratione naturali, ergo hoc non est ponendum."<sup>14</sup> The insistence of Wyclif and Wycliffites on scriptural authority has long been asserted, but not much attention has been paid to the frequency with which Wyclif and many Wycliffites ground their alternative *clergie* on reason—which, by analogy to its scholastic Latin contemporary *ratio*, has a wide semantic range from "capacity for reasoning," through "rational argument/argumentation" and "definition," to "logic"<sup>15</sup>—as well as on Scripture.<sup>16</sup> While Wyclif had asserted the importance of Scripture to reason in the opening of his earliest extant work on logic,<sup>17</sup> in *De veritate sacre scripture* he gives a more considered assessment of the relationship between reason and Scripture.<sup>18</sup> Although this work has been selectively quoted to prove

<sup>14</sup> From one of the tracts against the Lollard Walter Brut's advocacy of women, London, British Library Harley 31, fol. 219r (quoted in Hudson, *Premature Reformation*, 377; Hudson uses it as an example of how the opponents of Wycliffites were aware of Wycliffite insistence on scriptural authority, but does not remark on the pairing of *sacra scriptura* with *ratio naturali*).

<sup>15</sup> See *MED*, s.v. *resoun*. On the exploitation of the full semantic scope of the word *resoun* in *Piers Plowman*, see John A. Alford, "The Idea of Reason in *Piers Plowman*," in *Medieval English Studies Presented to George Kane*, ed. Edward Donald Kennedy, Ronald Waldron, and Joseph S. Wittig (Woodbridge, Suffolk, 1988), 199–215.

<sup>16</sup> Hudson points out against the prevailing view that Wyclif himself did not hold to *scriptura sola*, but grants that "it is probably a reasonable summary of many of his followers' attitudes" (*Premature Reformation*, 228). Although she does not discuss Wyclif's followers, G. R. Evans does insist on Wyclif's place within a late medieval trend toward employing logical and philosophical terms and concepts in biblical interpretation: see *The Language and Logic of the Bible: The Road to Reformation* (Cambridge, 1985), chaps. 8 and 11; "Wyclif's Logic and Wyclif's Exegesis: The Context," in *The Bible in the Medieval World: Essays in Memory of Beryl Smalley*, ed. Katherine Walsh and Diana Wood, *Studies in Church History, Subsidia* 4 (Oxford, 1985), 287–300; and "Wyclif on Literal and Metaphorical," in *From Ockham to Wyclif*, ed. Anne Hudson and Michael Wilks, *Studies in Church History, Subsidia* 5 (Oxford, 1987), 259–66.

<sup>17</sup> Wyclif claims in the proem of his *De logica* to be "making plain the logic of Holy Scripture" by eschewing pagan references and relying exclusively on biblical proofs: "Motus sum per quosdam legis dei amicos certum tractatum ad declarandam logicam sacre scripture compilare. Nam videns multos ad logicam transeuntes, qui per illam proposuerant legem dei melius cognovisse, et propter insipidam terminorum mixtionem gentilium in omni probatione propositionum propter vacuitatem operis eam deserentes, propono ad acuendum mentes fidelium ponere probationes propositionum que debent elici ex scripturis." The *De logica* is printed in *Tractatus de logica*, 3 vols., ed. Michael Henry Dziewicki (London, 1893–99), 1:1–74; for the quoted passage, see 1:1. Willliell R. Thomson dates the *De logica* to ca. 1360 and explains how Dziewicki's three-volume edition conflates the *De logica* with two parts of the longer work *Logice continuacio*, dated 1360–63 (*The Latin Writings of John Wyclif: An Annotated Catalogue*, *Subsidia Mediaevalia* 14 [Toronto, 1983], 4–6); but see John Wyclif, *Tractatus de universalibus*, ed. Ivan J. Mueller (Oxford, 1985), xxxv, xxxvii–xxxviii; Mueller redates the second work to the early 1370s and the first more loosely between 1360 and 1368. Wyclif does give scriptural examples in the *De logica*, but in addition he freely makes use of standard logical examples of Socrates sitting, men being in Rome, and so on.

<sup>18</sup> John Wyclif, *De veritate sacre scripture*, ed. Rudolf Buddensieg, 3 vols. (London, 1905–7), vol. 1; dated by Thomson, *Latin Writings of John Wyclif*, 55, between late 1377 and the end of 1378.

Wyclif's reliance on *scriptura sola*, through the claim that Wyclif is founding a new logic different in kind from that of the schools, based not in rational argumentation but in scriptural interpretation and "application of the text to life."<sup>19</sup> it would be more accurate to say that for Wyclif, Scripture's logic includes scholastic logic without superseding it. There is no need to dismiss scholastic reasoning, "que ut plurimum est recta," because "logica Aristotelis . . . sit logica scripture" and "non est sustinenda ut Aristotelis, sed ut scripture sacre, cum ipsa sit autor summus et prima regula, de qua sola sequitur, si quidquam asserit, ergo verum. . . ."<sup>20</sup> Educated Wycliffites who employ scholastic techniques of argument appear to have espoused a similar theory: Scripture is itself logical, and reason when properly employed arrives at conclusions that accord with and may be illustrated from Scripture. They tend in their own writings to prefer arguments based on biblical proofs, and often insist that their opponents ought to use such proofs if they want to produce valid arguments. They also accept, and employ, the *resouns* of other authorities, as Thorpe's acceptance of Taylor's "appreued seyntis and doctours" shows and his own practice corroborates. But these other authorities must survive verification against reason and Scripture: "ony doctrine ("doctors" in the Pollard edition [129] and *STC* 24045[A]) discordinge from holi writt" (51.912–13) is not to be credited.<sup>21</sup>

Thorpe's grounding, then, is upon *clergie* rather than the clergy; he approves not the authorities the institutional clergy tell him to believe but only those that are consistent with reason and Scripture. This is an effective strategy, for Thorpe and other Wycliffites, because *clergie* remains the ideological basis of the clergy's own authority and the means by which clerics distinguish themselves from the lay population; Thorpe's opponents

<sup>19</sup> For this comment, see "John Wyclif from *The Authority of Sacred Scripture*," in *The Law of Love: English Spirituality in the Age of Wyclif*, ed. and trans. David Lyle Jeffrey (Grand Rapids, Mich., 1988), 332; for the selective quotations, see 333–38; and for a more general discussion of Wyclif along the same lines, see pp. 30–38 of the introduction to the volume.

<sup>20</sup> Wyclif, *De veritate sacre scripture*, ed. Buddensieg, 1:47.23–48.6.

<sup>21</sup> Authorities whose words Thorpe cites approvingly are included in Hudson's index of proper names: they include Grosseteste, Higden or "Cistrence," Augustine, pseudo-Chrysostom, and Gregory. Wycliffites tend to approve patristic writers such as Augustine and pseudo-Chrysostom, but to contest with their opponents the interpretation of certain key passages. They frequently refer to a few favourite "modern" writers, such as Grosseteste and Fitzralph. But they will cite other near contemporaries and even canon law when expedient. Hudson analyzes one writer's use of authorities in "A Wycliffite Scholar of the Early Fifteenth Century," in *The Bible in the Medieval World*, ed. Walsh and Wood, 301–15, and surveys Wycliffite practice in *Pre-mature Reformation*, 274–45 and 377–82.

find his grounding hard to dismiss, even if they may disagree with some of its limitations and emphases.<sup>22</sup> But Thorpe does not merely establish for himself and display to his newly enlarged audience a dissident authority better—because grounded in more authoritative writings and more adept reasoning—than that of the established church. In addition, he extends that dissident authority to non-academics: he includes all members of his audience, regardless of their level of formal education, as interpreters of Scripture and even as reasoners—provided, of course, that they are virtuous and have God's grace. And he claims that all properly virtuous interpreters and reasoners have the authority to reject bad interpretation and bad reasoning pronounced by the clerical authorities.

To accomplish this surprisingly egalitarian extension of authority, Thorpe represents his own ability to produce interpretations of Scripture and arguments from *opin resoun* as a result not, or not so much, of his clerical education but of virtue conferred by grace. Rather than affiliating himself with a prestigious school in order to assert the superiority of his *clergie* to Arundel's and the clerks', when at Arundel's prompting he recounts his education (37.437–39.516), Thorpe takes care to emphasize his dissociation from traditional clerical patterns of education: although his parents “spendiden moche moneye in dyuerse [but unnamed] placis aboute my lore, in entent to haue me a preest of God” (37.438–39), there was constant friction between Thorpe and his patrons because of his disinclination to become a priest. After leaving school he continued learning, but in a mode he presents as studiously non-institutional: much though the teachers he names are Oxford men closely associated with Wyclif, Thorpe does not name his college and the master under whom he studied; instead he claims to have been “ofte homli” with his teachers; to have “comownede wip hem long tyme and fele”; and to have chosen “wilfulli to be enformed bi hem and of hem, and speciali of Wiclef himsill” (41.578–79).<sup>23</sup>

<sup>22</sup> For more detailed discussion of this point, see the works listed in n. 11 above.

<sup>23</sup> For biographical details of the teachers and associates Thorpe names, see Hudson's note on this passage (112–13). On other late medieval English writers who blur their clerical status and education, placing themselves outside and/or in opposition to conventional notions of *clergie*, see Galloway, “*Piers Plowman* and the Schools,” and “Gower in His Most Learned Role and the Peasants' Revolt of 1381,” *Mediaevalia* 16 (1993): 329–47; Scase, “*Piers Plowman*” and the New Anticlericalism, 125–49, 168–73; A. G. Rigg, “William Dunbar: The ‘Fenyeit Freir,’” *The Review of English Studies*, n.s., 14 (1963): 269–73; Penn R. Szittya, “‘Sedens Super Flumina’: A Fourteenth-Century Poem Against the Friars,” *Mediaeval Studies* 41 (1979): 30–43 at 34 (these last two focus more specifically on antifraternality); and my discussion of the profession-obscuring pose I call “extraclergial” in “Imaginary Publics,” esp. chap. 3.

While Thorpe repeatedly affirms his dependence on grace and the virtue it confers,<sup>24</sup> one passage in particular presents an exemplary demonstration of reasoned interpretation through grace which Thorpe's readers could take note of as evidence of Thorpe's own virtue, and perhaps even emulate themselves. When one of the clerks asks Thorpe to interpret the assertion from pseudo-Chrysostom that it is a "synne to swere wele," Thorpe is momentarily confused; he has not taken (or wasted) the time to work out the meaning, "to stodie aboute þe witt þerof" (76.1707). He pauses before answering, but not in order to engage in any conventional process of academic *stodie*. Instead, he recalls Christ's promise to the disciples that they will be given the capacity to confound their judges (Luke 21:12–15) and prays for grace, then delivers this reply:

Sere, I knowe wel þat many men and wymmen haue now so swerynge in custum þat þei knowen not, neiþer wole knowe þat þei don yuel for to sweren as þei done. But þei gessen and seien þat þei done wele for to sweren as þei done, þouȝ þei witen wele þat þei sweren vntreweli. For þei seien now þei mowen bi her swerynge, þouȝ it be fals, voyde blame or temperal harme whiche þei schulden haue if þei sworn not þus. Also, sere, manye men and wymmen now meynteynen strongli þat þei sweren wele, [þouȝ þei neden not to sweren but bi yuel custum,] whanne þat þing is soop þat þei sweren fore. Also ful many men and wymmen seien now þat it is wele idone to swere bi creaturis, whanne þei mowen not, as þei seyne, oþer wyse ben trowid. And also ful many men and wymmen now seyne þat it is wele idone to swere bi God and bi oure Ladi and bi oþer seyntis, and so for to haue hem in mynde. But siþ alle þese seyinges ben now excusaciouns in synne, me þinkiþ, ser, þat þis sentence of Crisostom mai be allegid skilfulli agens alle sich swerers, witnessinge þat alle þese synnen greuouseli, þouȝ þei d[is]c[em]e hemsilf to sweren in þis forseide wyse wele. For it is yuel don and gret synne for to swere truþe, whan in ony manere a man may excuse him wipouten oop (76.1712–77.1730).

Arundel, duly confounded, accepts this interpretation without further argument (see 77.1731–32).

Nor is Thorpe's interpretation merely a mystical effusion, despite the way it is presented; it hinges on a thoroughly academic explanation of how

<sup>24</sup> On both occasions when Thorpe appeals to Scripture and reason, for example, he links his clerical grounding to grace and virtue. After invoking Scripture and reason in his opening protestation, Thorpe adds, "For bi autorite speciali of þese lawes I wole þoruȝ þe grace of God be ooned charitabli to þese lawes" (33.324–34.325). While Arundel and the clerks are for the first time trying to make him swear on the book, Thorpe prays for grace so that he may use his two authorities properly: "I preiede God for his goodnesse to geue me þanne and alwei grace to speke wip a meke and an esy spirit, and, whateuer þing þat I schulde speke, þat I might haue p[er]to trewe autorite of scripture or open resoun" (36.427–37.430).

the adverb "well" is being used. Indeed the argument does not make much sense unless its academic background is understood; it is anything but a straightforward exposition. Thorpe does not take up the immediately puzzling aspect of pseudo-Chrysostom's assertion: that is, if swearing "well" is a meritorious act, then how can "to swear well" be a sin? It would be easy enough to resolve this obvious question by distinguishing "well" meaning "in a meritorious way" from a sense of "well" in which moral approval is not necessarily implied, such as "fluently"; then attributing only the second meaning to pseudo-Chrysostom. But there is a logical trap perhaps not immediately apparent to the modern reader in Arundel's question: a trap into which this explanation would fall.

In the phrase presented for interpretation, pseudo-Chrysostom modifies "swear" with the adverb "well." If Thorpe were to allow, in the course of his explanation, that "well" qualifies "swear," then he would be admitting that pseudo-Chrysostom's statement is not a universal categorical proposition.<sup>25</sup> Pseudo-Chrysostom's statement would not then be a universal categorical condemnation of swearing but would refer only to a restricted kind or circumstance of swearing. Thorpe's opponents would then be able to point out that even if pseudo-Chrysostom were saying that "to swear" is a sin in the restricted case he is discussing, it is possible (indeed probable, since pseudo-Chrysostom troubles to modify the verb) that in other circumstances pseudo-Chrysostom thinks "to swear" is not a sin. But pseudo-Chrysostom is one of Thorpe's "approved" authorities. Therefore if Thorpe were forced to admit the truth of this (admittedly strained, but logically sound) argument, then he would have to accept that in some circumstances "to swear" is not a sin—and that is just what Arundel wants.

Another solution Thorpe could have chosen would have been to insist on the larger context of this phrase: pseudo-Chrysostom is addressing clerics who encourage people to swear, and the sentence from which this

<sup>25</sup> On the various kinds of propositions, see Wyclif, *De logica*, in *Tractatus*, ed. Dziewicki, 1:15.26–17.21; for a lucid modern introduction, see Alexander Broadie, *Introduction to Medieval Logic*, 2d ed. (Oxford, 1993), chap. 3. A universal categorical proposition implies no restrictions, conditions, or qualifications: examples would be "all swearing is sinful" or "all cows eat grass." Here and later on I will use Wyclif's *De logica* to illustrate points of logic. Wyclif's *De logica* is a basic introductory work which provides short, clear explanations shorn of the elaborations and complications present in some other works; like most late fourteenth-century textbooks of its type its content is for the most part derivative rather than innovative (on this point, see E. J. Ashworth and P. V. Spade, "Logic in Late Medieval Oxford," in *The History of the University of Oxford*, vol. 2, ed. J. I. Catto and Ralph Evans [Oxford, 1992], 35–64 at 48). Since Wyclif is the master Thorpe acknowledges, Wyclif's seems the most appropriate textbook to consult, especially since where Wyclif does differ from the mainstream (see, for example, below at nn. 32, 50), his interests and methods seem close to Thorpe's.

phrase comes is "nunc autem cum sciatis, quia et bene jurare peccatum est."<sup>26</sup> If Thorpe were to insist on including even just the *et*, he will have escaped Arundel's trap; if pseudo-Chrysostom is saying that it is *even* or *also* a sin to swear well, there is not the same implication that another kind of swearing remains which is *not* sinful. The force this sort of insistence on context could have for a disputant wishing to assert clerical or clerigial authority will be appreciated by those who recall Conscience's dispute with Mede in *Piers Plowman* B III:<sup>27</sup>

'I leve wel, lady,' quod Conscience, 'that thi Latyn be trewe.  
Ac thou art lik a lady that radde a lesson ones,  
Was *omnia probate*, and that plesed hire herte—  
For that lyne was no lenger at the leves ende.  
Hadde she loked that other half and the leef torned,  
She sholde have founden fele wordes folwyng therafter . . .  
. . . yow failed a konnyng clerk that kouthe the leef han torned.  
(B III 337–42 and 347, ed. Schmidt, 34–35)

Like other writers who use this argument, Conscience is claiming that his opponent is an inadequate student of *clergie* who cannot read well on her own, but needs guidance from a better educated clerk. Instead of using this tactic, however, Thorpe bases his solution solely on the puzzlingly contradictory phrase put to him.

In addressing only the phrase "bene jurare peccatum est," Thorpe exploits another method of asserting *clergie*: he behaves as though he were a respondent in a disputation *de sophismatibus*, a logic exercise conducted in public in which upper level undergraduates, or *sophistae*, would be required to resolve syntactically confusing or apparently illogical statements, or *sophismata*, by subjecting them to grammatical and logical analysis.<sup>28</sup> That is just what Thorpe does; he renders "to swear well" innocuous by claiming that "well" modifies "swear" only in an even more restricted case, when "swear well" is in indirect discourse, governed by verbs such as

<sup>26</sup> PG 56:698.

<sup>27</sup> I quote from A. V. C. Schmidt's edition of the B-text, William Langland, *The Vision of Piers Plowman* (London, 1978).

<sup>28</sup> On disputations *de sophismatibus*, see James A. Weisheipl, "Curriculum of the Faculty of Arts at Oxford in the Early Fourteenth Century," *Mediaeval Studies* 26 (1964): 143–85, esp. 154–56; William J. Courtenay, *Schools and Scholars in Fourteenth-Century England* (Princeton, 1987), 33; P. Osmund Lewry, "Grammar, Logic and Rhetoric, 1220–1320," in *The History of the University of Oxford*, vol. 1, ed. J. I. Catto (Oxford, 1984), 401–33, esp. 417; Edith Dudley Sylla, "The Oxford Calculators," in *The Cambridge History of Later Medieval Philosophy*, ed. Norman Kretzmann, Anthony Kenny, and Jan Pinborg (Cambridge, 1982) [hereafter *CHLMP*], 540–63. For analysis of some exponible *sophismata*, see Norman Kretzmann, "Syncategoremata, Exponibilia, Sophismata," in *CHLMP*, 211–41. (On the meaning of "exponible," see below.)

"think," "believe," "guess," or "say," describing the mental state and/or willed action of the sinner: "þei *known* not, neiper *wole knowe* þat þei don yuel for to sweren as þei done. But þei *gessen* and *seien* þat þei done wele for to sweren as þei done, þouȝ þei *witen wele* þat þei sweren vn-treweli" (my emphasis). His discussion relies on subtle distinctions between inward states such as *known*, *wolen known*, *gessen*, and *witen*, about whose context and implications I will have more to say later on.<sup>29</sup> But his most immediate concern is to neutralize the phrase presented to him; and his method of doing so employs a technique of analysis prominent in the logic course at Oxford in the latter part of the fourteenth century.

Richard Billingham's *Speculum puerorum* was the most influential text in the literature explaining this mode of analysis by means of the *probationes terminorum*.<sup>30</sup> Billingham teaches that complex propositions are "exponible," "resoluble," or "officiable"; they may be "proven" by one of three different methods of reducing them to basic components whose truth is self-evident. The propositions that concern us here are *officiabiles* propositions.<sup>31</sup> An "officiable" proposition consists of a *dictum*, or accusative-plus-infinitive construction, governed by an "official" term, that is, a modal verb or verb describing a mental act. One may analyze, or "officiate," any such proposition by spelling out the *officium*, or function, of its official term in relation to its *dictum*. Wyclif's discussion of officiation derives from Billingham's (as most late medieval discussions do), but Wyclif's treatment is unusual in that he focuses almost exclusively on "official" terms describing mental acts.<sup>32</sup> Here is one of Wyclif's examples

<sup>29</sup> See pp. 232–35.

<sup>30</sup> On strong interest in this method of analysis, and in Billingham in particular, at Oxford from ca. 1350 to 1400, see Ashworth and Spade, "Logic," 48; they discuss Billingham's and other treatises on the *probationes terminorum* at 42–45. Five versions of Billingham's treatise are included in *Some 14th Century Tracts on the Probationes Terminorum*, ed. L. M. de Rijk (Nijmegen, 1982). Recall Wyclif's focus in the opening of his *De logica* upon the *probaciones propositionum* (see n. 17 above). On the development of Billingham's and other specialized logic treatises from treatises on suppositions, see James A. Weisheipl, "Developments in the Arts Curriculum at Oxford in the Early Fourteenth Century," *Mediaeval Studies* 28 (1966): 151–75, esp. 157–61; for a recent survey of research in the various areas of late medieval logic teaching, see Courtenay, *Schools and Scholars*, 234–40.

<sup>31</sup> Useful discussions of "official" analysis appear in Alfonso Maierù, *Terminologia logica della tarda scolastica* (Rome, 1972), 451–67, and in the preface to Paul of Venice, *Logica Magna*, pt. 1, fasc. 7, ed. and trans. Patricia Clarke (Oxford, 1981), xiii–xviii.

<sup>32</sup> In the *De logica* Wyclif defines "official" terms as "specialiter tales qui concernunt actum mentis" (*Tractatus*, ed. Dziewicki, 1:67), "ut, scire, credere, intelligere, precipere, dubitare, imaginari, appetere" (ibid., 1:7), and includes modal terms only after his discussion of officiation, among terms to which all three sorts of analysis may be applied (ibid., 1:68).

of officiation:

scio deum esse  
Ista propositio est scita a me, "deus est,"  
que primarie significat "deum esse."<sup>33</sup>

This is a relatively basic version; texts on the *probationes* sometimes provide much more elaborate specifications of the conditions constituting reliable knowledge.<sup>34</sup> But the truth of each component here can be readily verified: Wyclif knows the proposition "deus est," and (in his century at least) "deum esse" is self-evidently true.

In Thorpe's version of pseudo-Chrysostom's meaning, the terms *knownen*, *wolen*, *gessen*, *seien*, and *witen* are *termini officiales* governing the *dictum* "they swear well."<sup>35</sup> Thorpe's explanation discusses the components that would result from the officiation of his newly created proposition "they guess and say that they swear well":

estimant et dicunt (eos) jurare bene  
Ista propositio est estimata et dicta ab eis, "jurant bene,"  
que primarie significat "eos jurare bene."<sup>36</sup>

It is true that these people guess and say that they swear well, as Thorpe begins his explanation by acknowledging. But despite all their "excusaciouns in sinne," of which Thorpe details several, the fact remains that the primary significate "they swear well" is invalid, because their ways of swearing are sinful. And therefore "þis sentence of Crisostom mai be allegid skillfulli azens alle sich swerers, witnessinge þat alle þese synnen greuouusli, þouȝ þei d[ic]m[en] hemsilf to sweren in þis forseide wyse wele." Thorpe's reply embeds "to swear well" in a proposition governed by a *terminus officialis*; thus, he avoids conferring upon "to swear well" status as anything other than a mental act, and one which he immediately labels as mistaken. In representing as divinely inspired a reply any *sophista* might be proud to have produced, Thorpe finds the narrow ground where he can present an explanation so *opin* in its *resoun* that the archbishop who opposes him will accept it without further argument, yet still present him-

<sup>33</sup> Ibid., 1:67 (punctuation modified).

<sup>34</sup> See, for example, the Italian version of Billingham's *Speculum puerorum* printed in de Rijk, *Some 14th Century Tracts*, 113–40.

<sup>35</sup> The circumlocutions of "they swear well" Thorpe provides—"þei done wele for to sweren as þei done," "þat it is wele idone to swere," "hemsilf to sweren in þis forseide wyse wele"—show that he sees the danger in attaching "well" to "swear." But I use the simplest formula here.

<sup>36</sup> Here I use the Latin vocabulary of the Latin manuscripts of the *Testimony*, Prague, Metropolitan Chapter Library O.29, fol. 203r, and Vienna, Österreichische Nationalbibliothek 3936, fol. 17v, from the transcriptions kindly lent to me by Anne Hudson.

self as an apostolic defender of the faith who is ultimately validated by God's grace rather than his own *stodie*.

Thorpe's position on that narrow ground appears precarious when, in reply to Arundel's attempt to pin him down to a heretical statement about the Eucharist, Thorpe condemns *sofestrīs* and their methods in the strongest of terms:

Ser, as I vndirstonde, it is al oon to graunte, eiper bileue, þat þere dwellip no substaunce of breed and to graunte, or to bileue, þat þis moost worþi sacrament of Cristis owne bodi is an accident wipouten soget. But, ser, forþi þat ȝoure axinge passip myn vndirstondinge, I dar neiper denye it ne graunte it, for it is scole-mater aboute whiche I neuer bisied me for to knowe in. And þerfor I committe þis terme *accidentem sine subiecto* to þo clerkis which deliten hem so in curious and so sotil sofestrie, þat þei mouen ofte so difficult materis and straunge, and waden and wandren so in hem fro argument into argument wip *pro* and *contra* to þe tyme þat þei witen not ofte where þei ben neiper vndirstonden clerli hemsilf. But þe schame þat þese prowde sofestrīs haue to ȝelden hem to men and bifore men makip hem ofte folis and to ben concludid schamefulli bifore God (55.1026–38).

By attacking methods he himself uses Thorpe would appear to lay himself open to a charge of hypocrisy. Beyond his claims that his ability is rooted not in scholastic training but in virtue conferred by grace, it seems that Thorpe also means to distance himself from the *kind* of *scole-mater* some *clerkis* indulge in: although in the course of the *Testimony* he shows—shows off, even—his ability as a disputant, he implies here that *his* ability is manifested in a way different from theirs. In a dispute where his opponents set the terms of the argument and frame every issue, the difference cannot, of course, be great. But Thorpe may succeed in establishing it in the most densely technical part of his defence, where he confronts the clerks and explains the rationale behind the model of virtuous ability he has presented.

Directly after the exemplary interpretation of pseudo-Chrysostom which silences Arundel, the clerks challenge Thorpe once again about his refusal to swear on the Mass book (78.1753–80.1826). Thorpe's confrontation with them is also a confrontation between conflicting methods of using academic terminology in the vernacular. The clerks use academic language to flaunt the authority which (they apparently think) greater knowledge gives them. They try to intimidate Thorpe into assent: one condescendingly glosses *equyvalent* for him, under the impression, it seems, that once Thorpe has been acquainted with the concept he will consent; while the

other accuses him of not knowing his *equyuocaciouns* (78.1754, 80.1811). Thorpe replies with a barrage of academic terms; in this small section appear the following direct translations of specialized Latin terms: *sentence*, *vertue*, *vnperfū*, *pryncipal part*, *propirli*, *sencible*, *effectual(li)*, as well as *equyuocacion* and *equypolent*. But he uses this barrage to propound an egalitarian theory of knowledge.

We will examine in a moment how Thorpe's use of academic terms and techniques contrasts with the clerks' intimidatory style. But first, in order to locate these conflicting methods within late medieval vernacular academic usage, it will be worthwhile to pause and consider the provenance and vernacular uses of the mini-glossary of academic terms generated in this passage. This selection is a good index to sources of academic terms used in late medieval vernacular writings. *Equypolent* derives from a concept important in logic; *effectual(li)*, *vertue*, and *sencible* are translations of ideas basic to natural science; and the other terms are tools of exposition and argumentation used widely in academic prose.

Logic, natural science, and the parlance of argumentation are precisely the academic ground we would expect to be common to men who had attended university for even a short time in late medieval England,<sup>37</sup> for they were the basis of the university curriculum. In the faculty of arts, where most students studied before proceeding (if at all) to the higher faculties of law, medicine, and theology,<sup>38</sup> students heard lectures on the *libri logicales et naturales* concurrently from the beginning of their studies, and argumentation was a basic tool of instruction.<sup>39</sup> Lectures given by masters included exposition of the text in *quaestio* form, according to which the master would simulate argumentation by posing and answering questions

<sup>37</sup> As Courtenay points out, students frequently did not complete a full course leading to a degree (*Schools and Scholars*, 21 and esp. n. 27).

<sup>38</sup> There seems to have been considerable variation in how long students would remain in the faculty of arts before proceeding to the higher faculties; the issue has been discussed most recently by J. M. Fletcher, "The Faculty of Arts," in *History of the University of Oxford* 1:370–71, and Courtenay, *Schools and Scholars*, 30–36. Although there seems not to have been a formal requirement for a fixed period of study in arts, students would have needed to learn the material covered in the early years of arts study in order to proceed with work at any higher level.

<sup>39</sup> On the grounding of the terminology and genres of late medieval philosophical writings in the curriculum and methods of elementary training in arts, see Anthony Kenny and Jan Pinborg, "Medieval Philosophical Literature," in *CHLMP*, 11–42, esp. 15. For information on university curriculum, teaching methods, and texts, see Lewry, "Grammar, Logic and Rhetoric," passim; Fletcher, "Faculty of Arts," 369–99 passim; Alfonso Maierù, *University Training in Medieval Europe*, trans. D. N. Pryds (Leiden, 1994), esp. chap. 5 on methods of teaching logic; Courtenay, *Schools and Scholars*, 30–36; Sylla, "Oxford Calculators," 542–47; and Weisheipl, "Curriculum" and "Developments," passim.

and objections.<sup>40</sup> Students were taught to reason and to argue by means of supplementary textbooks (teaching, for instance, rules of inference and ways of opposing and responding) and they were required to attend—and later in their studies to participate in—disputations of various kinds taking place at least once a week.<sup>41</sup>

Words with specialized academic meanings in Latin came to be used in English not only in logical and scientific works but in other sorts of writing that were being produced by clerks who had completed at least the early years of the university arts curriculum or comparable instruction in some other school. *Equipollent*, the first clerk's contribution, provides a convenient illustration. (*A*)*equipollens* has a specialized usage in logic, for which it may have been coined and with which it was especially associated: equipollent propositions are logically equivalent and interchangeable; it is useful to analyze the equipollence of propositions in order to determine, for example, the effect of double negatives on certain kinds of propositions.<sup>42</sup> The word may also have a specialized usage in scientific writing associated with its other sense—equal in power, authority, influence, or capacity; but until there is a comprehensive study or dictionary of the language of scientific and philosophical writings in this period, it will be impossible to ascertain to what extent (*a*)*equipollens* used in this sense appeared in late medieval Latin scientific contexts or, indeed, to make any firm statements about the origins and development of either meaning.<sup>43</sup>

<sup>40</sup> On the various sorts of academic lectures, see most recently Fletcher, "Faculty of Arts," 374–78; and Courtenay, *Schools and Scholars*, 32–33.

<sup>41</sup> On supplementary textbooks, see Weisheipl "Developments," 153–67; and most recently, Ashworth and Spade, "Logic," 48–60; and Lewry, "Grammar, Logic and Rhetoric," 406–10. On disputations, see Fletcher, "Faculty of Arts," 378–92 passim; Courtenay, *Schools and Scholars*, 33; and Weisheipl, "Curriculum," 153–55 and 158–60.

<sup>42</sup> See *TLL*, s.v. *aequipollens*, adj.; and *Dictionary of Medieval Latin from British Sources*, prepared by R. E. Latham and (subsequently) D. R. Howlett (Oxford, 1975–) [hereafter *DMLBS*], s.vv. *aequipollenter*, adv. (b), *aequipollentia*, n. (b), and *aequipollere*, v. (b). Wyclif briefly discusses equipollence in his *De logica* (*Tractatus*, ed. Dziewicki, 1:22–23). A useful introduction to the theory of equipollence in medieval logic appears in Broadie, *Introduction to Medieval Logic*, 2d ed., 153–56.

<sup>43</sup> The scientific use of this meaning in the seventeenth century by Robert Boyle may point toward a provenance for this term in medieval Latin scientific academic writings; see the *Oxford English Dictionary*, 2d ed., prepared by J. A. Simpson and E. S. C. Weiner (Oxford, 1989), [hereafter *OED*], s.v. *equipollent*. The entries for this meaning in the *DMLBS* (s.vv. *aequipollenter*, adv. [a], *aequipollentia*, n. [a], and *aequipollere*, v. [a]) are all from legal or legalistic contexts; however, this dictionary does not aim to provide the sort of comprehensive coverage of philosophical and scientific writing that I hope a more specialized work will provide in the future. I would appreciate having any further insights into or examples of the logical and scientific use of (*a*)*equipollens* brought to my attention.

With that proviso, it is possible with the aid of the *MED* to provide at least a sketch of developments in the use of *equypolent* in later Middle English. The word and its derivatives are recorded by the *MED* in works written from ca. 1412 up to the end of the medieval period. In some contexts the logical or scientific meaning is invoked, but more in order to lend an aura of education than because the complexity of the discussion requires the technical term.<sup>44</sup> Elsewhere uses derived from the academic ones fall into three broad categories: 1) in Lydgate's aureate style, the word is used to extol poetic excellence, as well as for assessing punishments in the pagan hell;<sup>45</sup> 2) in discussions of governance, various writers use the word with a monitory tone to describe intended or actual violations of proper hierarchy;<sup>46</sup> 3) in devotional or polemical religious contexts, it is used to explain theological concepts involving equivalence and/or interchangeability.<sup>47</sup> In none of these cases is *equypolent* used because it is the simplest word for the purpose; nor as a straightforward extension of its usage in science or logic or even in legal writing. Rather, *equypolent* begins to appear in new contexts where it would never have occurred to a Latin writer to use it; contexts, indeed, that are not available, or at the very least do not have the same valence, in Latin. Broadly speaking, *equypolent* begins to appear in just the sorts of works—*aureate* poetry, advice-to-princes, and devotional religious writings—where academic terminology is employed in a style rather like that of Thorpe's clerks: where writers are

<sup>44</sup> To save space, I use the *MED*'s abbreviated references throughout this discussion. See *MED*, s.v. *equipol*, adj. ("The whiche seyinge in singuler may wel be seid equipolle to a plurelle," c1450 *Pilgr.LM* 64) and *MED*, s.v. *equipolence*, n. (b) ("Late hym study in equipolences, And late lyes and fallaces," a1425 [?a1400] *RRose* 7076), as well as *MED*, s.v. *equipolent*, adj. (2) ("Thyne Elementes be made equipollent," ?c1500 [1471] \**Ripley CAlch.* 58a).

<sup>45</sup> The famous example is "Among oure bokis of englishe perles / ..per is no makynge to his [Chaucer's] equipolent" ([a1420] *Lydg. TB* 2.4712; see *MED*, s.v. *equipolent*, adj. [2]). For the second usage, see for example "Pe peyne of Yxyon in helle, / Or of Manes / ..Were not egal nor equipolent / To venge mordre" ([a1420] *Lydg. TB* 5.1053; see *MED*, s.v. *equipolent*, adj. [3]).

<sup>46</sup> Two examples: *MED*, s.v. *equipolent*, adj. (1) ("They [women] wille wayten been equipollent, / And sumwhat more, vnto hir housbondis," a1450 [c1412] *Hoccl. RP* 5108; "Ther may no grettir perell growe to a prince, than to haue a subgett equepolent to hym selff," [a1475] *Fortescue Gov.E* 130/30).

<sup>47</sup> The word is glossed, as it is in the *Testimony*, in a fifteenth-century rule for minoresses: "A fest double or anoper feste whiche is equypollent, pat is for to vnderstonde, a fest of pe same dignite" (a1500 *Rule Minoresses* 114/18; see *MED*, s.v. *equipolent*, adj. [2]). It is used to discuss penance in a translation of the *Pilgrimage of the Life of Manhood* ("Equipollence ther shulde be of penitence," c1450 *Pilgr.LM* 190; see *MED*, s.v. *equipolence*, n. [a]), and to explain eternity in a set of lessons on the *Dirige* ("Mennes dayes..in respyte of tyme euermare..beth nothyng equipolent," c1450 *LDirige*[2] 340; see *MED*, s.v. *equipolent*, adj. [2]). There are many similar later examples in religious writings dating from the sixteenth to the nineteenth century: see *OED*, s.v.v. *equipollent* (A2), (A3a,b), *equipollently*, *equipollency* (1), *equipollence* (1), *equipolle*.

attempting to import intellectual authority for themselves into English, but making little effort to transfer concepts and arguments to a new sphere and a new audience.

In contrast to the clerks' grandiloquent word-dropping, Thorpe uses technical terms to build an exposition. One of the most obviously academic features of Thorpe's expository method, here and elsewhere, is his use of that basic building block of scholastic argumentation, the distinction. Scholastic counterargument frequently involves distinguishing two or more ways that an important term in the opposing argument may be understood so as to diminish or dismiss the force of that argument. Some methods of distinction appear often enough in counterargument that they may be considered conventional: examples are distinction between what is true of something generally speaking and what is true in a particular case; between what is true at a particular time and what is true at another time or in the usual state of affairs; between the sense a verb has when modified by an adverb and its sense when unmodified or modified otherwise; and between what a term is applied to in precise philosophical usage, *proprie*, and the common colloquial use of the term, *communiter* or *vulgariter*.<sup>48</sup> Distinctions of this last sort are closely related to another kind used generally in academic expository writing as well as counterargument: academic expositions often proceed by distinguishing then explaining in turn the various senses of a term or expression;<sup>49</sup> and for many terms there is a set of different meanings that are standardly differentiated.

When the second clerk accuses Thorpe of not knowing his *equivocations*, he is referring to the context in which both sorts of distinctions were apparently taught and discussed: they are listed (in varying amounts of detail) in logic textbooks in the discussion of fallacies, most of them under the heading *fallacia aequivocationis*.<sup>50</sup> But far from not knowing his

<sup>48</sup> For those familiar with scholastic argumentation these observations need no demonstration. For others, I have provided at least one example of each in my discussion on pp. 215–18 above, in the discussion that follows here, on pp. 229–30, or on p. 231 below.

<sup>49</sup> For example, Wyclif in his *De compositione hominis* (ed. Rudolf Beer [London, 1884]; dated ca. 1372 by Thomson, *Latin Writings of John Wyclif*, 36) distinguishes four senses of *homo*: "pro anima," "pro corpore," "pro natura integra," and "pro persona vel substantia, que est quelibet istarum trium naturarum vel rerum vel etiam omne ens contraccius, quod est aliqua earundem" (15–18); then he uses this distinction as a principle in his answers to objections throughout the work (e.g., 109–13).

<sup>50</sup> Several treatises on fallacies that contain discussions of equivocation are printed in L. M. de Rijk, *Logica Modernorum*, vol. 2, pt. 2 (Assen, 1967). E. J. Ashworth gives a comprehensive explanation of theories of equivocation up to Aquinas, extending far beyond their appearance in treatises on fallacies, in "Analogy and Equivocation in Thirteenth-Century Logic: Aquinas in Context," *Mediaeval Studies* 54 (1992): 94–135. Wyclif gives the most basic explanation possible for equivocation in the *De logica*: "Terminus equivocus est, qui propter rationes diversas sig-

*equyvociouns*, Thorpe uses both of these sorts of distinction in his reply. To dismiss the arguments of the clerks he distinguishes between *effectual* and ineffective accomplishment of an action (79.1799–1801) and between *vnperfū speche* and speaking *propirli* (79.1788–89). Moreover, he structures his counterargument around the equivocal senses of *vertue*. These references to *vertue* are as follows:

- þe gospel þat is vertu of Goddis word (78.1775: Jerome)
- þe rewme of God is not in word but in vertue (78.1778–79.1779: 1 Cor 4:20)
- þe vois of þe Lord, þat is his word, is in vertue (79.1779–80: Ps 28:4)
- in þe spirit of his moup is al þe vertue of hem (79.1781–82: Ps 32:6)
- al þe vertue of a tree is in þe roote þerof (79.1791–92)
- þe godhede of Crist þat is þe vertue of God (79.1801–2)
- þe gospel þat is þe vertue of Cristis word (79.1802–3)

And more are implied. *Vertue* or *virtus* is used in natural science to mean “power” or “capacity”; this is the sense in which God’s *vertue* is Christ’s divinity, man’s *vertue* is his soul, and a tree’s *vertue* is in its root. Another sense of *vertue*, used in ethical writings and elsewhere, is close to what “virtue” ordinarily means in modern usage: the correct disposition of man’s soul, partly infused by grace and partly acquired by conforming oneself to the living and teaching of Christ. Thorpe exploits both.

The crucial points in Thorpe’s counterargument are the equipollence in authority between Christ and Christ’s word that he draws from the first clerk’s assertion (“as ȝe seide to me riȝt now, God and his word ben of oon autorite,” 79.1793–94) and the distinction he draws between the written gospel and the understanding of the gospel (“þe gospel þat is vertu of Goddis word is not in þe leues of a book but it is in þe roote of resoun,” 78.1775–76): the *vertue*—i.e., power—of the God’s word is not in the book at all but in man’s *vertue*, his soul, the root of his reason or source of

nificat res diversas, sive ipsa sint diversarum specierum (sicut *animal latrabile*, *marina bellua*, et *celeste sidus*, quorum quodlibet sit iste terminus *canis*, secundum diversas rationes specilicas), sive sint eiusdem speciei” (*Tractatus*, ed. Dziewicki, 1:4); he eliminates all the complexities developed in the thirteenth-century works printed by de Rijk and discussed by Ashworth. But he seems to have become more interested in equivocation later on, even if his explanation of it does not become more complex; in the *De veritate sacre scripture* he ascribes the principle of equivocation to Augustine and makes it fundamental to his account of scriptural logic (ed. Buddensieg, 1:9–10). The clerk’s accusation and Thorpe’s disproof of it may very well have special significance for Wycliffites: in the *De veritate sacre scripture* Wyclif repeatedly accuses those who misinterpret Scripture of not knowing their equivocations (e.g., *ibid.*, 1:12.7–10, 14.11–13, 61.15–24, 94.9–17, 3:165.5–9).

his power of understanding.<sup>51</sup> But proper understanding comes about only through proper belief in God: "as þe godhede of Crist þat is þe vertue of God is knowen [by the vertue] þoruȝ bileue, so [on the premise that the terms "Crist" and "Cristis word" are *equyvalent*] is þe gospel þat is the vertue of Cristis word" (79.1801–3).<sup>52</sup> To understand Christ's word properly in the *vertue*/soul/root of reason, then, one must conform to Christ in *vertue*/virtue. Anyone whose *vertue*/soul is not virtuously conformed to God's *vertue*/Christ, no matter how learned he or she may be, cannot understand Scripture. Thorpe cites Christ's authority—from the gospel in his *roote of resoun*, we might note, since Arundel has taken his book away—to clinch his argument:

bi autorite of Crist himsilf þe effectual vndirstondyng of Cristis word is taken awei from alle hem chefly whiche ben grete lettrid men, and presumen to vndirstonden hiȝe þingis and wolen b[en] holde wise men, and desiren maistirschipe and hiȝe staate and dignyte, but þei wolen not conforme hem to þe lyuyng and techyng of Crist and of hiȝe apostlis (80.1818–23).

This argument might well have been put together using a distinction collection, a preacher's manual which gives multiple senses of words around which a sermon may be constructed.<sup>53</sup> This claim may appear farfetched and will require some justification. Normally the distinctions employed in philosophical writing would be only distantly related to those found in distinction collections for preachers. Preachers' manuals were compiled by educated writers who were scholastically trained and had access to a number of books (or, at minimum, by those who had access to a number of car-

<sup>51</sup> "... a mannys soule, þat may not now here be seen ne touchid with ony sencible þing, is propirli man" (79.1790–1). Thorpe does not reiterate the word *vertue* in this phrase, but it seems clear that he is referring to the standard late medieval doctrine on the human soul developed from thirteenth-century commentaries on Aristotle's *De anima*. The immaterial, incorruptible (thus, immortal) aspect of the human soul is its *virtus intellectiva*, which is the source of the human capacity for understanding abstractions, though its functions are not confined to those we might regard as those of the intellect. This notion is not controversial, as far as I have been able to determine, for Wyclif or Wycliffites.

<sup>52</sup> The phrase "by the vertue" appears only in the 1530 edition of Thorpe's testimony. I include this phrase because it emphasizes the way Thorpe is turning *vertue* to his advantage, but its meaning is implicit in the medieval text reconstructed by Hudson as well: belief, or faith, is a *vertue*/virtue inhering in man's *vertue*/soul.

<sup>53</sup> For the development and use of these manuals, see Richard H. and Mary A. Rouse, "Statim invenire: Schools, Preachers, and New Attitudes to the Page," in *Renaissance and Renewal in the Twelfth Century*, ed. Robert L. Benson and Giles Constable (Cambridge, Mass., 1982), 201–25; and *Preachers, Florilegia and Sermons: Studies on the "Manipulus florum" of Thomas of Ireland*, Studies and Texts 47 (Toronto, 1979), esp. 3–42. For their use in the fourteenth century, see Christina von Nolcken, "Some Alphabetical Compendia and How Preachers Used Them in Fourteenth-Century England," *Viator* 12 (1981): 271–88.

lier manuals); thus certain terms for which a set of meanings are standardly distinguished in scholastic exposition would obviously tend to be assigned the same meanings in distinction collections, and would sometimes be provided with examples from scholastic as well as patristic writers and the Bible. But academic distinctions and those in preachers' manuals were employed in quite different ways and, to a large extent, by distinct groups; the writer of an academic lecture and the parish priest constructing a sermon around senses of *canis* or *virtue* would have moved in separate spheres and addressed separate audiences.

When the separate spheres and modes of address associated with academic argumentation and vernacular sermon become less distinct, and methods of academic address begin to appear in vernacular polemical material aimed (ostensibly at the very least) at a lay audience, there are obviously grounds for suspecting that methods of constructing these two kinds of expositions might become more closely associated. But we have better grounds even than these. The Wycliffites compiled a distinction collection of their own, the *Floretum/Rosarium*; a selection of articles from the text of the one Middle English manuscript of the *Rosarium*, together with a study of the manuscript tradition of the Latin and English texts, has been published by C. von Nolcken.<sup>54</sup>

Von Nolcken suggests that the main motivation for the revision of this compilation from *Floretum* into *Rosarium* was precisely the perceived importance of organizing the entries around distinctions.<sup>55</sup> The *Floretum* entries are listed in alphabetical order, but the contents of each entry are amassed rather than organized; material from each work consulted was added on to each entry in turn, and what distinctions the work includes come from its sources. An elaborate index is required to make the contents accessible. Each *Rosarium* entry, in contrast, is organized around an elaborate and often tendentious distinction between various senses of the word in question.<sup>56</sup> Preachers using the *Rosarium* could easily incorporate the most academic of distinctions into their vernacular sermons: the most striking example von Nolcken has found is a distinction on avarice drawn from Wyclif's *De mandatis* which appears in the *Rosarium* entry on avarice and subsequently at the end of sermon 11 of the *Lollard Sermons*.<sup>57</sup> Although von Nolcken focuses on the *Rosarium*'s increased usefulness for

<sup>54</sup> Christina von Nolcken, *The Middle English Translation of the Rosarium Theologie*, Middle English Texts 10 (Heidelberg, 1979).

<sup>55</sup> *Ibid.*, 20–21.

<sup>56</sup> *Ibid.*, 25–29.

<sup>57</sup> *Ibid.*, 37.

preachers constructing sermons,<sup>58</sup> her findings also have wider implications. If it helps preachers to construct sermons when they have an elaborately distinguished entry to work with, then it also helps polemicists. Indeed, as well as finding distinctions from the *Rosarium* and even the *Floretum* incorporated into sermons, von Nolcken has also found tracts into which *Rosarium* distinctions are incorporated, and tracts which consist of single *Rosarium* entries copied and circulated separately.<sup>59</sup>

While von Nolcken suggests that Thorpe could have drawn his material on preaching from the *Floretum* entry on *Predicacio*,<sup>60</sup> we may note in addition that for his argument against the clerks Thorpe could have used the entry for *vertue* in the Middle English manuscript of the *Rosarium*; when in the course of his explanation Thorpe reels off a list of biblical passages in which the word *vertue* appears, he gives the impression that he has at some point consulted a reference work of this sort.<sup>61</sup> The *Rosarium* entry begins by distinguishing "virtue made and vertue vnmade," naming "vertue vnmade" as God, then gives the three sorts of "vertu made" as "[1] naturall ^ (kyndely) ^, and [2] intelectuale or vnderstandyng, and [3] morale ^ (manly) ^"; it explains "morale" virtue in part as "ane habite, þat is to sey a roted qualite. . . ." Although Thorpe does not make the same initial distinction between created and uncreated virtue, the categories given in the *Rosarium* match up well with his: "vertue vnmade" corresponds to his "vertue of God," "vertue naturall" to the tree's "vertue," "vertue intelectuale" to the "vertue" in the "roote of resoun," and "vertue morale" to the virtuous mental disposition created "þoruȝ bileue" (the *Rosarium*'s "roted qualite") through which the gospel may be "effectualli" understood. However, since none of Thorpe's biblical references match those given in the *Rosarium* (and given that as in scholastic contexts, the distinctions made on particular words tended to be fairly standard in preachers' manuals much though the examples and presentation might vary), the case remains unproven.<sup>62</sup>

<sup>58</sup> Von Nolcken states that preaching is the focus of her interest in the *Rosarium* edition, in "Some Alphabetical Compendia," and also in "An Unremarked Group of Wycliffite Sermons in Latin," *Modern Philology* 83 (1985–86): 233–49.

<sup>59</sup> Von Nolcken, *Middle English Translation of the Rosarium Theologie*, 34–37.

<sup>60</sup> *Ibid.*, 36 and n. 66.

<sup>61</sup> Cambridge, Gonville and Caius College 354/581, fol. 131, s.v. *uertue*; not included in von Nolcken's edition. Material between carets in the following quotation is written above the line in the same or a similar hand in the manuscript. In this and all subsequent quotations from manuscripts, abbreviations are silently expanded and modern punctuation supplied. No importance need be attached to the variant spellings of *vertue* in the entry quoted here.

<sup>62</sup> On the uniformity in content of preachers' manuals, see von Nolcken, "Some Alphabetical Compendia," 272.

What I am more concerned to stress is the contrast between the kind of attitude to the use of academic words in the vernacular the *Rosarium* represents and that of the clerks. The *Rosarium* entries are designed to be readily comprehensible and transmissible, not to impress and intimidate. Each distinction provides a way of learning and remembering the various senses of a word; in many cases it also teaches why the word is controversial and gives a polemical argument for a Wycliffite position. Academic words become a vehicle for the dissemination of concepts and arguments; there could not be a greater contrast to the clerks' attempts to use them as bludgeons of assent.

It must be conceded that Thorpe's "exposition" on *vertue* does not provide as great a contrast, or at least not in the same way; it does not have the clear structure and comprehensibility of the *Rosarium* entry. His argument looks more like a set of enigmatic puns than the usual sort of academic distinction. What his presentation certainly does is to mark out a style qualitatively different from that of *scole-mater*, even if that style can be characterized by a hostile listener as being instead "ful derk mater and vnsauery" (79.1804). Enigmatic utterances may, of course, derive power for those who understand them, and menace for those who do not, from their very obscurity: a special group who "knows the code" may divine the import on that basis.<sup>63</sup> Anyone who knows the *Rosarium* distinction on *vertue* also holds the key to Thorpe's answer, even if he or she cannot follow him every step of the way. But whether or not Thorpe's exposition on *vertue* might advocate egalitarian comprehension in its style, it certainly does so in its sentiments.

By imputing the "unperfit speche" that "men vsen" to the clerks—and thus using the standard scholastic tactic of discarding a "common" or "vulgar" way of understanding an expression—Thorpe is throwing the clerks' condescension back in their teeth. But rather than simply joining the clerks in dismissing "common" understanding, in the argument he constructs around the equivocal senses of *vertue* Thorpe transmits intellectual authority to the less educated but virtuous men and women he imagines as the newly extended audience for his and other writers' vernacular polemi-

<sup>63</sup> R. F. Green and A. Hudson each suggest that the cryptic and allusive letters attributed to John Ball in Knighton's and Walsingham's accounts of the Peasants' Revolt may contain "veiled" or "coded" references comprehensible to participants in the revolt; the chroniclers' inclusion of the letters testifies, I think, to their perceived menace (Richard Firth Green, "John Ball's Letters: Literary History and Historical Literature," in *Chaucer's England: Literature in Historical Context*, ed. Barbara A. Hanawalt [Minneapolis, 1992], 176–200, esp. 188–90; Anne Hudson, "Piers Plowman and the Peasants' Revolt: A Problem Revisited," *The Yearbook of Langland Studies* 8 [1994]: 85–106). The letters are edited in an appendix to Green's article.

cal works. When he denies authority to anyone without *vertue* in his *vertue*, no matter how knowledgeable that person may be, Thorpe implicitly extends authority to everyone virtuous. He does not dismiss academic argument altogether, but rather subordinates it to an alternative religious authority grounded principally in virtue. Yet the egalitarian implications of Thorpe's theory stretch back to their academic source as well as out to everyone else.

Later Thorpe follows out the implications of his *vertue* argument to enlist all virtuous people as his fellow supporters of William Taylor against Alkerton:

Sere, I gesse certeynly þat þere was no man ne womman þat hatide verily synne and louede vertues, heerynge þe sermoun [of þe clerk of Oxenford and also Alkirtouns sermoun], þat ne þei seiden eiper myzte iustly seien þat Alkirtoun repreuede þe clerke vntrewli, and sclaudride him wrongfully and vncharitabli, [as I seide to hym in Watlynge strete]. For no doute if þe lyuyng and techinge of Crist cheuely and of his apostlis be trewe, no liif þat louep God and his lawe wole blame ony sentence þat þe clerk prechide þan þere . . . (85.1967–75).

Thorpe does not suggest that Taylor's sermon was entirely free of academic terms, or that it ought to have been—indeed, by saying that Taylor “prouede clereli” (85.1976) using the authorities Thorpe himself accepts, Thorpe implies that Taylor's sermon has affiliations similar to his own. Rather, in order to enlist new and potentially favourable adjudicators in addition to the academics who are already on his side, Thorpe is proposing a kind of egalitarianism in virtuous understanding which would allow any virtuous listener who loves God and his law to recognize the clerk's arguments as good, no matter how little formal education the listener might have or how complex those arguments might be.

If Thorpe puts his academic knowledge to use, or even on display, in his exchanges with the clerks, it is in his exchanges with Arundel that he shows to best advantage his skill at evasion. In response to Arundel's attempts to induce Thorpe either to grant without qualification that he will obey the ordinances of Holy Church or to deny the church's tenets outright so that he may be condemned, Thorpe uses every delaying tactic he can muster. On some occasions he withholds assent, saying that he does not have the necessary knowledge, as here: “siþ *I knowe not* þat Goddis lawe appreueþ it [the doctrine on the Eucharist brought in by Thomas Aquinas], in þis mater *I dar not graunte. But vitirli I denye to make* þis freris sentence or ony oþer sich *my bileue*, do wiþ me, God, what þou wolt” (56.1049–52, my

emphasis). Strictly speaking, Thorpe is not denying the “*freris* sentence” here any more than he is granting it; rather, he says, in the absence of the knowledge he would need to judge its truth, he is refusing to affirm it as his belief.

In other places, Thorpe distinguishes different meanings in Arundel’s statements as a way to avoid denying them: for example, in reply to Arundel’s assertion that those who have recanted Lollardy have become wise much though Lollards might think them fools, Thorpe equivocates:

Ser, I gesse wel þat þese men and such opere ben now *wise men as to þis world*, but as her wordis sowneden sumtyme, and her werkis schewiden outward, it was licly to many men þat þei hadden eer[n]is of þe *wisdam of God*, and þei schulden haue deserued myche grace of God to haue saued her owne soulis and manye oper mennes if þei hadden perseyuered feiþfulli . . . (39.522–40.527; my emphasis)

Rather than contradicting Arundel directly, Thorpe distinguishes two sorts of wisdom and imputes to the recanters the lesser of the two.

Whenever he can, Thorpe avoids being backed into the sort of situation where he might have to either grant or deny. He takes every opportunity to question Arundel instead, in an attempt to get him to do the granting and denying. For the most part Arundel is too wary to be drawn out.<sup>64</sup> But Thorpe’s tactic succeeds brilliantly right at the end of the *Testimony*, when Arundel has charged Thorpe, “*tarie þou me now no lenger; graunte to do þis þat I haue seide to þee now here schortly, eiþir denyen it vtterli*” (86.2023–24). In reply, Thorpe successfully engages Arundel in a whole series of questions:

And I seide to þe Archebischoþ, ‘Owen we, sere, to bileuen þat Iesu Crist was and is very God and verry man?’

And þe Archebischoþ seide, ‘Ȝhe.’

And I seide, ‘Sere, owen we to bileue þat al Cristis lyuyng and his techinge was trewe in euery poynt?’

And he seide, ‘Ȝhe.’

And I seide, ‘Sere, owen we to bileue þat þe lyuyng and þe techyng of þe apostlis of Crist and of alle þe prophetis ben trewe . . . ?’

And he seide, ‘Ȝhe.’

And I seide, ‘Sere, owen alle cristen men and wymmen, aftir her kunnyng and her power, for to conforme alle her lyuyng to þe lyuyng and techyng

<sup>64</sup> See, for example, their discussion of the Eucharist, where Thorpe attempts to question Arundel about the distinction (if any) between *fourme*, *kynde*, and *substaunce* (53.970–54.990). Here neither Arundel nor Thorpe answers the other: each recognizes the other’s strategy and sidesteps his question.

of Crist specialy . . . ?'

And he seide, 'Ȝhe.'

And I seide, 'Sere, owip þe doctrine, þe heestis eiper þe counseil of ony liif to be accept eiper obeied vnto . . . ?'

And þe Archebischoþ seide to me, 'Oþer doctrine owip not to be accept. . . .'

And I seide, 'Ser, is not al þe lore, þe heest[is] and þe counseilis of holy chirche meenes and helpe]ful remedies to knowe and to withstonde þe priuy suggestiouns and þe aperte temptaciouns of þe fend . . . ?'

And þe Archebischoþ seide, 'Ȝhis.'

And I seide, 'Sere, whateuer þing ȝe or ony oþer liif biddiþ eiper counseiliþ me to do acording to þis forseid lore, astir my kunnyng and my power, þoruȝ þe helpe of God I wole mekeli of alle myn herte obeie þerto' (86.2025–87.2062).

By asking these questions, Thorpe leads Arundel to agree with him about a body of *forseid lore*. It is then hardly consistent for Arundel to continue to insist that Thorpe may not qualify his obedience according to that same *lore*. As Arundel storms out of the room after this exchange, he is demonstrating that his principles are contradictory: his ecclesiastical imperative to make Thorpe submit unconditionally to the authority of *holy chirche* is in conflict with the logical implications of his religious beliefs.

The maneuverings I have detailed show Thorpe's aptitude in evasion. It is worth considering whether this skill, like his abilities in argument and counterargument, is derived from and designed to display his alternative Wycliffite *clergie*. Other than in his care to avoid granting or denying, we have already seen evidence of Thorpe's interest in carefully differentiating between mental attitudes to propositions during his interpretation of pseudo-Chrysostom; the discrimination evident in the ways he couches his own assertions—"I gesse wel," "I knowe wel," "I wote wel,"—indicates that his interest is more than superficial. Indeed, it is a preoccupation in several other Wycliffite texts as well. Aston has already noted that Thorpe's refusal to grant or deny Arundel's question on the Eucharist—"I dar neiper denye it ne graunte it, for it is scole-mater . . ." <sup>65</sup>—closely resembles the exemplary refusal to grant or deny the same question given in the Wycliffite tract "De Blasphemia." <sup>66</sup> But there remains more to be said about mental attitudes taken up by Wycliffites, and indeed by Wyclif himself, in these and several other texts.

<sup>65</sup> The passage is quoted in full on p. 220.

<sup>66</sup> Aston, "Wycliffe and the Vernacular," 66 and n. 99.

The discussion of mental attitudes in “De Blasphemia” does not confine itself to the subject of the Eucharist, but is more general in its scope, and even has a theoretical dimension. It recommends that for matters outside the scope of belief, “we [ne] shulde graunte hom, ne denye hom, ne dowte hom; bot suppose hom, gesse hom, or hope hom,”<sup>67</sup> provided there is no contrary evidence. It then discusses three cases in which one ought to suppose or hope: when asked whether in a particular instance “this bread” is God’s body, when asked if one is ordained to be saved, and when asked whether the substance of bread remains present in the consecrated Eucharist.<sup>68</sup> The most detailed explanation of this theory I have encountered in a Wycliffite text occurs in the “Dialogue between Reson and Gabbyng,”<sup>69</sup> where Reson in replying to Gabbyng’s challenge of his caution against believing uncertain things lays out four attitudes and briefly outlines the circumstances under which each should be maintained:

þer ben foure answeris to spechis. Summe worde men graunten for þei witen þat it is soþe before God, as ben poynts of belecue and oþur treupis þat we seene. Summe wordis men denyen for þei witen þat þei ben false as ben wordis contrarie to truþe þat we han grauntid for þe first truþe. þer ben on þe þrid maner summe wordis þat we douten wheþer þei ben soþe or false for contrarie eydens þat we han. But þere ben on þe fourt maner summe wordis þat we supposen to be soþe or ellis false aftur eydens þat we han (fol. 159v).

Apart from Wyclif’s more technical discussions of mental acts in his early *De logica*, *Logice continuatio*, and *De actibus anime*,<sup>70</sup> in several of

<sup>67</sup> “De Blasphemia” in *Select English Works*, ed. Arnold, 3:402–29 at 426; my emendation. Note that the English Wycliffite tract titled “De Blasphemia” is not the same text as Wyclif’s *De Blasphemia*.

<sup>68</sup> Ibid., 426–27.

<sup>69</sup> Dublin, Trinity College 245, fols. 153v–160r. As Anne Hudson was the first to point out (“A Lollard Quaternion,” in *Lollards and Their Books*, 193–200 at 196), this dialogue is a simplified, abridged translation of the first twelve chapters of Wyclif’s *Dialogus*. However, the problem of what relation the “Dialogue between Reson and Gabbyng” bears to whatever shorter or longer versions of Wyclif’s *Dialogus* may have been accessible to the translator is greatly complicated by the lack of a critical edition of the *Dialogus*. I plan to pursue the issue in a separate article. See John Wyclif, *Dialogus*, ed. Alfred W. Pollard (London, 1886), 24.6–18, for one Latin version of the vernacular exposition quoted here. On the current state of scholarship on the variant versions of the *Dialogus*, see Thomson, *Latin Writings of John Wyclif*, 268–70.

<sup>70</sup> As already discussed, Wyclif pays unusually close attention to mental acts in his discussion of officiation in the *De logica*. In the *Logice continuatio* his discussion centres on issues prominent in treatises *de scire et dubitare* (for an introduction to and an example of such treatises, see Paul of Venice, *Logica Magna*, pt. 1, fasc. 7, ed. and trans. Clarke) and treatises on obligations (on which see further below). The *De actibus anime* investigates the nature of mental acts rather than interesting itself in which acts are appropriate in what circumstances (John Wyclif, *De actibus anime*, in Michael Henry Dziiewicki, ed., *Miscellanea philosophica*, vol. 1 [London, 1902], 1–127; dated ca. 1365 by Thomson, *Latin Writings of John Wyclif*, 8, and 1369 by Mueller, in Wyclif, *Tractatus de universalibus*, xxxvii.) These early discussions are by no means irrelevant to

his later works Wyclif discusses what mental acts and what responses are appropriate to matters inside and outside belief. A fourfold scheme of mental acts in *De dotacione ecclesie* closely resembles that in the vernacular dialogue just cited: "isti quattuor actus sunt distincti, scilicet scire credere reputare vel supponere et dubitare."<sup>71</sup> A more detailed discussion in the *Triologus* focuses, like the dialogue, on responses, and shows an even closer resemblance. *Phronesis* explains:

Verumtamen quia istud non est fides, non oportet quod credatur ab ecclesia, sed quod probabiliter supponatur. Nec oportet quod ambigatur, cum multa sunt proponenda vianti quae nec debet dubitare nec concedere nec negare, ut proposito mihi, quod sum praedestinatus, aut de peccante graviter, quod erit damnatus propter hoc quod erit finaliter obstinatus, nec talia concedo nec nego nec dubito, sed reputo unam partem. Et sic visa hostia adoro ipsam conditionaliter, et omnimode de adoro corpus Domini, quod est sursum. Et sic responsio ad istas sex argutias potest esse medium ad tollendum consimilia argumenta.<sup>72</sup>

There are several comments in the *De veritate sacre scripture* on reputative or suppositional knowledge, but since Wyclif is most of all concerned in that work to explain what things may be infallibly known through Scripture and reason, none of them pursues the matter at length.<sup>73</sup> Two vernacular Wycliffite texts do, however, elaborate the description of what sort of things should be supposed or hoped. The tract "The Church and Her Members" exhorts, "Holde we us in bondis of bileve, þat stondip in general wordis and in condicionel wordis, and juge we not here folili."<sup>74</sup> In general terms, without descending to discuss particular cases, we know by belief that "ech membre of þe fend is dampned," but "we witen not where we ben membris of holi Churche."<sup>75</sup> Nonetheless each man should hope and suppose that he is: "we mai seie bi supposal, þat we gesse þat it is

Wyclif's later views—Wyclif brings up matters discussed in the *Logice continuacio* and *De actibus anime* in the *De veritate sacre scripture* while explaining what attitude to maintain toward uncertain matters (*De veritate sacre scripture*, ed. Buddensieg, 2:88.2–16)—but the topic must await thorough investigation elsewhere.

<sup>71</sup> Printed as a supplement to the *Triologus* in John Wyclif, *Triologus*, ed. G. Lechler (Oxford, 1869); the passage cited is on p. 412 (*De dotacione ecclesie* 2). Thomson, *Latin Writings of John Wyclif*, 83, dates the work to late 1382.

<sup>72</sup> *Triologus*, ed. G. Lechler, 281.1–11; Thomson, *Latin Writings of John Wyclif*, 79, dates the work to late 1382 or early 1383.

<sup>73</sup> See *De veritate sacre scripture*, ed. Buddensieg, 2:16.10–19, 87.20–88.16; 3:74.6.

<sup>74</sup> "The Church and her Members," in *Select English Works*, ed. Arnold, 3:338–65 at 344.

<sup>75</sup> *Ibid.*, 339; emphasis mine.

so."<sup>76</sup> The "Tractatus de Pseudo-Freris" recommends the same modes of speech as a way to avoid falsehood in accusations against friars, although without distinguishing so carefully between conditional or general speech and supposing or guessing: "many men speken generalliche of here synne, & leuen to descende to persones lest þei medlen fals wip sob. & þus þei speken bi condicioun, or supposyng, or gessyng. þat 3if freris don þus cristen men schulden be war wip hem."<sup>77</sup> So too, in the "Dialogue between Jon and Richerd," careful distinction of attitudes becomes a tool of argument when Jon catches up Richerd for leaping from a conditional proposition to a suppositional assertion: "I graunt wele þei mai. . . . But schame 3ou of þis resoun, þat if it mai be so þan it is so and schal be supposed. For be þe same skil, iche frere schulde be a fende and þer order schulde be dampned. For al þis mai be."<sup>78</sup>

This topic deserves further investigation. But these examples already suggest that there is a reasonably coherent and actively promoted doctrine among Wycliffites about what mental attitudes should be taken to matters lying outside what belongs to belief on the grounds of holy writ and open reason. Netter's retort that any sinful priest, even Judas, can consecrate the host "non reputative, sed vere et assertive" provides further evidence that the scheme was put into use against orthodox opponents.<sup>79</sup> Further, this doctrine appears to rely on training in scholastic logic, both in its caution about remaining with conditional and general statements and in its interest in mental attitudes which were, as explained in my discussion of the analysis of officiable propositions, of considerable interest to contemporary schoolmen and to Wyclif in particular.

It remains, however, to examine how Thorpe's sensitive discrimination between mental attitudes and his facility in making distinctions are of use to him in his efforts to avoid granting and denying propositions. It will help us to address this topic if we examine one more aspect of logic training. Thorpe's evasive moves and his last exchange with Arundel in particular—especially since they appear in the context of an imperative to grant or deny propositions within a limited period of time<sup>80</sup>—resemble a particular kind of disputation in which students engaged known as an "obligation."

<sup>76</sup> Ibid., 344.

<sup>77</sup> "Tractatus de Pseudo-Freris," in *The English Works of Wyclif Hitherto Unprinted*, ed. F. D. Matthew, EETS, o.s., 74 (London, 1880; 2d rev. ed. 1902), 296–324 at 297.

<sup>78</sup> Cambridge, Trinity College B.14.50, fol. 47r.

<sup>79</sup> Thomas Netter, *Doctrinale Antiquitatum Fidei Catholicae Ecclesiae*, ed. F. Bonaventura Bianciotti, 3 vols. (Venice, 1757–59; rpt. Farnborough, 1967), vol. 2, col. 95E.

<sup>80</sup> See Arundel's and the clerks' comments that time is limited at 34.349, 42.612, 52.921–22, 61.1220–21, 74.1621–28, 77.1733, 86.2005–9, and 86.2023.

The "obligation" is an exercise in which one participant (*opponens*) proposes complex or incomplex statements to the other (*respondens*). At the outset the *respondens* agrees to an alteration in normal truth conditions proposed to him by the *opponens*: he agrees to accept an initial statement (*positum*) that is possible but not necessarily true at the time of the obligation and hold it as necessarily true or false during the course of the obligation. The *opponens* then puts a series of further statements to the *respondens*, who is obliged to deny any statement pertaining (*pertinens*) to the *obligatio* and inconsistent with it, even if the statement might be considered true under normal circumstances, and grant any statement pertaining to the *obligatio* whose contradictory would be inconsistent with it, even if in normal circumstances such a statement would be considered untrue. Statements proposed during the obligation which do not pertain to the *obligatio* are treated as they would be normally. The *respondens* is limited to a narrow range of responses; he may grant (*concedere*), deny (*negare*), say the statement is uncertain because there is insufficient information to grant or deny it (*dubitare*),<sup>81</sup> or distinguish (*distinguere*) parts or senses of the statement and then grant or deny those. Within a set period of time, the *opponens* attempts to force the *respondens* to give a reply inconsistent with the *obligatio* or inconsistent with ordinary truth other than when the *obligatio* requires it.<sup>82</sup> Here, in my translation and schematic summary, is

<sup>81</sup> Although this circumlocution is awkward, the translation "doubt" is inadequate. In the specialized terminology of obligation *dubitare* indicates a neutral indecision and covers all varieties of uncertainty, whereas in twentieth-century usage (and, as we have seen, in Wycliffite theory), "doubt" implies denial. See P. Clarke's comments in Paul of Venice, *Logica Magna*, pt. 1, fasc. 7, xix-xx.

<sup>82</sup> I give a simple account of *positum* obligation here, similar to the one Wyclif gives in the last chapter of his *De logica* (*Tractatus*, ed. Dziewicki, 1:69-74). Dziewicki (1:xxvii-xxx) and Fivans (*Road to Reformation*, 126-27) have summarized Wyclif's treatment of obligations; E. J. Ashworth places it in the context of other mid- to late fourteenth-century treatises in "English *Obligationes* Texts after Roger Swyneshed: The Tracts Beginning 'Obligatio est quaedam ars,'" in *The Rise of British Logic*, ed. P. Osmund Lewry, Papers in Mediaeval Studies 7 (Toronto, 1983), 313-16. Several other obligations treatises have been edited in recent years: those readily available include L. M. de Rijk, "Some Thirteenth Century Tracts on the Game of Obligation," *Vivarium* 12 (1974): 94-123; 13 (1975): 22-54; and 14 (1976): 26-49; Paul Vincent Spade, "Richard Lavenham's *Obligationes* (Edition and Comments)," *Rivista critica di storia della filosofia* 33 (1978): 225-41; idem, "Robert Hland's *Obligationes*: An Edition," *Mediaeval Studies* 42 (1980): 41-60; idem, "Roger Swyneshed's *Obligationes*: Edition and Comments," *Archives d'histoire doctrinale et littéraire du Moyen Age* 44 (1977): 243-85; Norman Kretzmann and Eleonore Stump, "The Anonymous *De arte obligatoria* in Merton College U.S. 306," in *Mediaeval Semantics and Metaphysics*, ed. E. P. Bos (Nijmegen, 1985), 239-80; Paul of Venice, *Logica Magna*, pt. 2, fasc. 8, ed. and trans. E. Jennifer Ashworth (Oxford, 1988). Theories developed in these treatises about what kinds of responses were legitimate or most effective are fascinating, but I cannot pursue them here; the best brief introductions are in E. J. Ashworth's introduction to the *Logica Magna*, pt. 2, fasc. 8, and in the articles by Eleonore Stump and Paul Vincent Spade entitled "Obligations," in *CHLMP*, 315-41.

one of the examples Wyclif gives:<sup>83</sup>

<i>opponens</i>	<i>respondens</i>
Positum: No proposition is posited to you.	Admitted and granted.
2. Some proposition is posited to you.	Denied (inconsistent with obligation).
3. (a) This proposition is posited to you, (b) and this proposition is some proposition; (c) therefore some proposition is posited to you.	<i>Consequencia</i> granted (i.e., acknowledges that the form of the argument is sound). Major premise (a) denied.
4. Contra: (a) I posit to you this proposition, (b) therefore this proposition is posited to you.	<i>Consequencia</i> granted. <i>Antecedens</i> (a) denied, because <i>in isto casu</i> , in this obligation, in which no proposition is posited to you, it follows that nobody posits a proposition to you.

As this example may suggest, generally the philosophical content of obligations is trivial: naturally enough, since they start from a statement which while possible is not necessarily true, these exercises do not prove anything. They focus instead on testing (usually to destruction) the internal consistency and the cogency of arguments. How they were used—whether mainly to train students in producing consistent arguments, or whether to explore problems in the philosophy of language or counterfactual logic—is a topic of some controversy.<sup>84</sup> We do know that obligations were taught as part of the course in logic in the arts faculty, and thus that students who

<sup>83</sup> For Wyclif's more discursive Latin version, see the *De logica* (*Tractatus*, ed. Dziewicki, 1:72).

<sup>84</sup> E. J. Ashworth's introduction to Paul of Venice, *Logica Magna*, pt. 2, fasc. 8, xiii–xiv, provides a balanced assessment of theories about the purposes and uses of obligations; the other editions named are also a valuable source of commentary, as are the recent articles by E. Stump and P. V. Spade cited by Ashworth.

remained at university even for as little as two years would have been familiar with the terminology and mode of argument of obligations, and would very probably have participated in them. It has been suggested that the specialized usages of words like *concedo* and *nego* and the rules of conduct developed in obligations “spill over” into other areas of philosophy;<sup>85</sup> I would suggest that the terminology and techniques of obligation spilled over into the vernacular as well.

The fourteenth-century poem the “Song of Nego,” reveals that some vernacular readers and writers knew the terminology of obligation:

For whoso can lite, hath sone i-do,  
 Anone he drawith to *nego*.  
 Now o clerk seiith *nego*;  
 And that other *dubito*;  
 Seiith another *concedo*;  
 And another *obligo*,  
*Verum falsum* sette therto;  
 Than is al the lore i-do.<sup>86</sup>

As is obvious, this poem associates obligation terminology firmly with *scole-mater*, to which its attitude is similar to Thorpe’s. Arundel’s retort against Thorpe’s criticism of *scole-mater*—Thorpe’s criticism could itself be construed to describe obligations, among other sorts of disputation—may be a similarly joking dismissal of obligation terminology. When Arundel allows, “I purpose not to *oblische* þe to þe sotil argumentis of clerkis, siþ þou art vnable herto” (55.1039–40; emphasis mine), he certainly means *oblische* in the sense of legal or ethical commitment. But the word’s appearance in close conjunction with “sotil argumentes” and with Thorpe’s description may point toward a wry pun.

Beyond joking use of terminology, however, obligation techniques would seem to have some wider influence as well. There is little to go on in

<sup>85</sup> See Spade, “Obligations: B,” in *CHLMP*, 341.

<sup>86</sup> From London, British Library Harley 913, fol. 58v. This manuscript, known as the Kildare manuscript, was compiled by Franciscans in Ireland ca. 1330 and contains a mixture of Latin and vernacular materials. Several of the English items are of a satirical cast. For the most recent description of the English contents and a bibliography of studies upon the manuscript, see Margaret Laing, *Catalogue of Sources for a Linguistic Atlas of Early Medieval English* (Cambridge, 1993), 90–91. A. G. Rigg discusses some of the Latin contents in *A History of Anglo-Latin Literature, 1066–1422* (Cambridge, 1992), 304–7. The poem cited is available in two editions: *The Political Songs of England*, ed. Thomas Wright (London, 1839), 210–11; and W. Heuser, *Die Kildare-Gedichte: Die ältesten Mittelenglischen Denkmäler in Anglo-Irischer Überlieferung* (Bonn, 1904), 139–40; I cite lines 15–22 from Wright. The poem’s attitude to scholastic argument has been occasionally and briefly noted, but the specific link to obligations terminology has never been noticed.

most of the vernacular Wycliffite texts that discuss what attitudes should be taken in responding to challenges, since most of these texts merely recommend responses rather than putting them to use in argument.<sup>87</sup> In the *Testimony*, however, it is clear that both Thorpe and Arundel are acutely aware of the advantage to be gained by constraining one's opponent to grant or deny a proposition—and of the perils of being so constrained. Arundel and Thorpe's final exchange does not have the logical rigor of the obligations each might have participated in at Oxford. Nor is it a direct imitation of obligation exercises. But the mode in which it proceeds is suggestive. What Thorpe forces Arundel to acknowledge is, precisely, the inconsistency between the additional obligation to church authority that Arundel is trying to impose on him and the lore and the methods of argument that Arundel also professes to accept. This is exactly the inconsistency in Arundel's clerical grounding that he is least willing to acknowledge; indeed, that occasions the *Testimony* and permits it to continue for as long as it does. Arundel's assumption from the beginning has been that by means of his own *clergie* it will be possible for him to persuade Thorpe to submit to the institutional clergy; their final exchange shows just why his attempts will never be successful.

The reader of the *Testimony* is meant to enjoy watching Thorpe top the clerks and beat Arundel at his own game. But he or she is never meant to forget that these techniques of argumentation are Thorpe's game as well; not even when Thorpe condemns clerks for their "curious and so sotil sofestrie" (55.1033). By setting up an alternative authority for argument grounded in *vertue* rather than *stodie*, Thorpe thinks he has established his difference from those whom he has criticized for wading and wandering from argument to argument. His idea, it seems, is that there can be a community of belief in which academic argument is not ruled out, but is subordinated to grace; where anyone, no matter how little educated, can have intellectual authority by virtue of their *vertue*.

So far we have been taking him at his word. However, although Thorpe is remarkably successful in reconciling his bid for wider appeal with his establishment of an alternative Wycliffite *clergie* capable of challenging the church's *clergie* on its own terms, we might well ponder just how far Thorpe really does open the argument up to the virtuous but less educated

<sup>87</sup> The four Wycliffite dialogues (on which see n. 2 above) are of course an exception, and in conjunction with my edition of them I plan a wider ranging study of polemic and didactic dialogues in Latin and the vernacular from 1100 to 1500 which will, in part, examine modes of argument in Wycliffite and other dialogues.

members of his audience. According to the model of interpretation Thorpe has proposed, his virtuous audience should be as capable as he: once they apply their *vertue*, Scripture will be plain and reason open. That is why he enlists them as authorities. But a telling elision on Thorpe's part reveals a problem that educated Wycliffites must deal with when, and if, they put their claims to openness into practice.

Because Thorpe thinks Scripture is plain and reason open to the virtuous, he does not leave a space for any unexpected opinions his new audience might want to present. He is so certain of their reply that he does not feel the need to include it: "I gesse certeynly þat þere was no man ne womman þat hatide verily synne and louede vertues, heerynge þe sermoun of þe clerk of Oxenford and also Alkirtouns sermoun, þat ne þei seiden eiber myght iustly seien þat Alkirtoun repreuede þe clerk vntrewli, and selaundride him wrongfully and vncharitabli," he confidently asserts (85.1967–71). But on no occasion, here or elsewhere, does he actually elicit their opinion; he never expresses any doubt that it is the same as his own. Indeed, if we consider for a moment, it becomes plain that in this confident assertion, it is the audience's assent that *qualifies* its members as virtuous: if they do *not* agree that Alkerton reproved the clerk untruly, then that reveals only that they do not hate sin and love virtue. Thorpe obliges the new authorities he enlists against Repyngdon to answer in one particular way just as thoroughly as he obliges Arundel. Or perhaps even more thoroughly; he constrains them into granting and denying according to his script *even as* he invites their participation.

To expect Thorpe genuinely to open up the questions he treats to a broader debate by a wider audience is, of course, in a sense unfair. Of course Thorpe aims to convince his audience rather than to propose his arguments for open consideration: to expect him to do more would be to expect him to compromise, probably fatally, his position in the debate his text reports, and to transcend the polemic in which his written text engages. Nonetheless, it remains that in Thorpe's as in other late medieval vernacular texts that open a previously academic Latin argument to a new potential audience, there is finally no guarantee that the virtuous audience will reply as expected. The model the *Testimony of William Thorpe* offers to every one of its readers for establishing his or her own authority as a reasoner and an interpreter of Scripture has more far-reaching implications than Thorpe may have realized. Once he has conferred authority upon the less educated, he cannot take back their *vertue* so easily; and it may even turn out that he has taught them more about argumentation than he expected. What his readers may do with the authority now vested

in their *vertue* is beyond Thorpe's imagining—and beyond his control. That is not a serious problem for William Thorpe; his situation in the enclosed chamber where his examination takes place is so dire that any "opening" whatever to a larger audience is likely to work to his advantage. But the potential difficulties in opening the argument to a new audience which Thorpe so notably ignores are more prominent for other late medieval writers whose possibilities are wider. To bridge the gap between expected and possible reception that gapes so wide in Thorpe's text, a new form of address to the prospective audience would seem to be required—but to investigate this topic further, so will another paper.<sup>88</sup>

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<sup>88</sup> Many thanks to Andrew Galloway, Janet Harris, Anne Hudson, and Winthrop Wetherbee for their comments on earlier drafts of this paper; to Anne Hudson in addition for much practical help in gaining access to research materials; to the librarians of Trinity College Cambridge, Gonville and Caius College Cambridge, the Cambridge University library, and the Bodleian library for their assistance; to Trinity College Library, Dublin, the Master and Fellows of Trinity College, Cambridge, and the Master and Fellows of Gonville & Caius College, Cambridge for permission to publish quotations from manuscripts in their libraries; to David R. Howlett and associates at the *Dictionary of Medieval Latin from British Sources* for allowing me to consult the dictionary's files at length; and to Norman Kretzmann for directing my study of medieval philosophy.

## A NEGLECTED ANGLO-NORMAN VERSION OF *LE CUVIER* (LONDON, BRITISH LIBRARY HARLEY 527)

Roy J. Percy

"Le fabliau du *Cuvier* a été conservé dans un seul manuscrit." This categorical statement introduces the diplomatic and critical editions of the poem, from Paris, Bibliothèque Nationale fr. 837, prepared by R. L. H. Lops and H. B. Sol for the *Nouveau recueil complet des fabliaux* (NRCF).<sup>1</sup> It is, however, a mistaken statement. A version of *Le Cuvier* is to be found incorporated among a group of similar tales in an Anglo-Norman redaction (*h*) of the *Disciplina Clericalis* (hereafter *DC*) of Petrus Alphonsi in the thirteenth-century manuscript, London, British Library Harley 527. The text of *DC*, identified by its French title *Le Chastoiement d'un père à son fils*, is the second item in the manuscript; it is preceded by a romance, *Gui de Bourgogne*, and followed by a Latin prose epigone of Julius Valerius's *Alexander the Great*, some extracts from Isidore's *De ortu et obitu patriarcharum*, and the romance of *Horn*. The occurrence of a version of *Le Cuvier* among the tales of *DC* was noted by H. L. D. Ward in his description of this manuscript.<sup>2</sup> He entitled the story on fol. 38r–v "The Gallant hidden under the Washing-tub," and remarked on its similarity to the familiar, published version: "Almost the same as the independent Tale in Barbazan and Méon, iii. pp. 91–6; though the present copy is, as usual, shorter and slightly differs from the printed one in the denouement."<sup>3</sup> The text of *h* from Harley 527 was published by Alfons Hilka and Werner Söderhjelm as an appendix to their edition of the French verse translations of *DC*.<sup>4</sup> The extant manuscripts offer two quite distinct French versions of

<sup>1</sup> *Nouveau recueil complet des fabliaux*, ed. Willem Noomen and Nico van den Boogaard (Assen, 1983–), 8 of a projected 10 vols. published. For the text of *Le Cuvier*, see vol. 5 (1990), 135–44; notes et éclaircissements, p. 403. All quotations of what is hereafter referred to as version *A* of *Le Cuvier* are from the *texte critique*, pp. 141–44.

<sup>2</sup> H. L. D. Ward et al., *Catalogue of Romances in the Department of Manuscripts in the British Museum*, 3 vols. (London, 1883–1910), 1:113 and 2:253–58.

<sup>3</sup> Ibid. 2:254–55. For the text to which Ward refers, see Barbazan-Méon, *Fabliaux et contes des poètes françois des XI, XII, XIII, XIV et XV<sup>e</sup> siècles*, 4 vols. (Paris, 1808).

<sup>4</sup> *Petri Alfonsi Disciplina Clericalis III: Französische Versbearbeitungen*, ed. Alfons Hilka and Werner Söderhjelm, Acta Societatis Scientiarum Fennicae 49.4 (Helsinki, 1922), 139–58.

DC—'A', of continental Norman origin, printed by Hilka and Söderhjelm primarily from British Library Add. 10289 (*A*), and 'B', of Anglo-Norman origin and shorter by some one thousand lines than its Norman counterpart, printed primarily from Oxford, Bodleian Library Digby 86 (*D*). *Le Cuvier* appears in *h*, an abbreviated *remaniement* of 'B', but not in the other DC manuscripts.

It is certainly odd that version *h* of *Le Cuvier* has not found its way into the fabliau canon since its appearance in print in 1922. Its neglect must in large measure be attributed to Per Nykrog's failure to register it in his inventory of fabliaux,<sup>5</sup> augmented from that of Joseph Bédier<sup>6</sup> with tales of the fabliau-type drawn from medieval French fable collections, specifically the *Fables* of Marie de France and the French verse translations of DC. From the latter source Nykrog appropriated five tales common to *A* and *D* and gave them French titles based primarily on scribal rubrics in *D*. In the conventional order of their appearance in the Latin and French texts of DC these tales are *La Femme qui charma son mari* (Nykrog 66—hereafter *Charma*); *Le Velous* (Nykrog 144); *L'Espée* (Nykrog 60); *La Vieille et la Lisette* (Nykrog 147—hereafter *Lisette*); and *La Piere au Puis* (Nykrog 99—hereafter *Puis*). The *h* version of *Le Cuvier* appears as the fourth of this group of tales, unified by their common general theme of stratagems practiced by adulterous wives to deceive their husbands. It assumes the place between *L'Espée* and *Lisette* normally reserved for a deliberately soporific and soon aborted tale about ferrying sheep across a river, a tale told by a tired minstrel to discourage an importunate patron with an insatiable appetite for further stories. Nykrog's fabliau inventory was accepted by Jean Rychner, and consequently *Le Cuvier* does not figure among the fabliaux extant in more than one version which were examined in his comparative study.<sup>7</sup> The existence of version *h* of *Le Cuvier* was also overlooked by Montgomery in his edition of *Le Chastolement d'un père à son fils* from Add. 10289, despite the fact that he included, as Appendix B to his edition, the text of four *exempla* from Harley 527 which did not appear in his base manuscript.<sup>8</sup>

<sup>5</sup> Per Nykrog, *Les fabliaux: Étude d'histoire littéraire et de stylistique médiévale* (Copenhagen, 1957). Version *A* of *Le Cuvier* is listed as no. 43 on p. 315. Nykrog numbers cited below refer to the numbers in his inventory on pp. 309–24.

<sup>6</sup> Joseph Bédier, *Les fabliaux: Études de littérature populaire et d'histoire littéraire du moyen âge*, 5th ed. (Paris, 1925). Bédier lists version *A* as no. 42 on p. 437.

<sup>7</sup> Jean Rychner, *Contribution à l'étude des fabliaux*, 2 vols. in 1 (Geneva, 1960).

<sup>8</sup> *Le Chastolement d'un père à son fils*, ed. Edward D. Montgomery, Jr., University of North Carolina Studies in the Romance Languages and Literatures 101 (Chapel Hill, N.C., 1971), 187–93.

The following discussion is divided into three sections which offer an annotated diplomatic edition of version *h* of *Le Cuvier*, compare it with version *A* of the poem in relationship to its proposed Latin sources, and investigate the validity of distinguishing the two texts generically as fable and fabliau.

## I

The present edition of version *h* of *Le Cuvier* is intended as far as possible to remedy an oversight in the coverage of fabliau materials in *NRCF*. Scholars will find it most valuable if used in conjunction with that work. I have therefore thought it advisable to present the text in a diplomatic edition which conforms to the editorial principles adopted by what is destined to become the new standard edition of fabliau texts. The critical edition of version *A* of *Le Cuvier* furnished by *NRCF* already meets any needs which might be satisfied by a critical edition of *h*, and consequently none is offered, but such a critical edition could readily be assembled from the critical notes, which are presented in a sufficiently comprehensive and detailed format to facilitate such an undertaking.<sup>9</sup> In preparing these critical notes I am privileged to have received the extensive and invaluable assistance of Professor Ian Short of the University of London. From his study of the text of *h* he has concluded that there exists "ample evidence to justify considering this fragment as an Anglo-Norman version, or reworking, rather than simply as an insular copy, of *Le Cuvier*."<sup>10</sup>

<sup>9</sup> The critical notes to this diplomatic edition, and other philological comments, use the following abbreviations:

- AND = Louise W. Stone, William Rothwell, et al., *Anglo-Norman Dictionary*, 7 fasc. (London, 1977-92).  
 Pope = M. K. Pope, *From Latin to Modern French . . .*, 2d ed. (Manchester, 1952).  
 T-L = A. Tobler and E. Lommatzsch, *Altfranzösisches Wörterbuch* (Berlin and Wiesbaden, 1925-).  
 Tanqueray = F. J. Tanqueray, *L'évolution du verbe en anglo-français* (Paris, 1915).

<sup>10</sup> In a personal communication to the author, Professor Short cited the following evidence in support of this opinion. "The scripta of the Harley fragment shows a consistently wide range of Anglo-Norman spellings: *u* for *o*, *ei* for *oi*, *u* for *ui*, *ei* for *ai*, *e* for *ie*, *devaunt*, *ferez* (*ferez*), *mesun* (*maison*), *jeo*, *ad*, *ke*, etc. A study of the rhymes reveals several dialectal forms attested elsewhere in Anglo-Norman: the linking of [u] and [y] in *sus* : *tuz* 51, also perhaps *curut* : *ust* (for *ot* ?) 35 (cf. Pope 1142); the rhyming of [e] and [je], in contravention of 'Bartsch's Law,' in *cuntremaundé* : *repeiré* 10 and *haster* : *manger* 17 (cf. Pope 1155); the rhyming of *sace* (for *sache*) with *place* 42 (cf. Tanqueray 337-39, 346). The widespread interchange of prefixes in Anglo-Norman is represented by *apromta* 6 for *empromta* (cf. AND 34)." Other typically Anglo-Norman features are dealt with in the critical notes to the diplomatic text.

## DIPLOMATIC TEXT

*h*

	Li sires en sun bosioin alat		En'le ele de la meisun le baina
	E dist ke mult i demurra	8	Le vs de la sale ben ferma
	La dame maunde sun ami		Li sires fu cuntremaunde*
4	Baigner le vout puis esbanir		A l'oustel tost est repeire
	A sa veisine enuea		Il hurte a le us haut ad crie
	Sa cuue a baigner apromta*	12	La cuue unt il tost reuerse
			Li chapelein desuz* musce

6 a promta MS  
suz MS

9 cuntre maunde MS

10 l of oustel written over erasure

13 de

1 One syllable too long. Read "sire" for "sires" (cf. 15); "bosoin" for "bosioin."

3-4 The rhyme *ami* : *esbanir* is imperfect, as is *ostel* : *aprester* (22-23) and *sul* : *lecheur* (52-53). On the AN interchange between [r] and [l], see Louis Emil Menger, *The Anglo-Norman Dialect* (New York, 1904), 87. See Pope §§ 1193, 1204 on the instability of [r] in Anglo-Norman.

5 Read "veisinē envēa."

7-8 These lines are perhaps inverted. Line 7 is two syllables too long, and evidently corrupt. The manuscript reading "Enle ele de la meisun" could conceivably be a miscopying of an original "En es la meisun" ("in the very house"; cf. T-L 3:785-86, s.v. *es*). Emending to "Enz en la meisun" gives a satisfactory line but is more or less arbitrary; "enenz" or "dedenz" are equally possible alternatives. On *maison* ("inner room, chamber"), see T-L 5:891-92. In line 8 read "L'us"; cf. 11, 14.

9 On *contremander*, see T-L 2:797; AND, 133. The word probably has the specific sense here of being sent back after a summons to appear as a participant in an action before a court of justice without one's services having in fact been required. Despite the vagueness of "bosoin" (line 1) this would precisely explain the husband's absence, his unexpectedly early return, and perhaps the presence of strangers, plausibly fellow jurors, who accompany him.

11 Read "l'us"; cf. 8, 14.

12 Absence of feminine agreement on the past participle is not unusual.

13 An apparently isolated verse. Sense can be made by reading "muscé" as a past participle (a sort of ablative absolute construction), but this would imply a succession of three couplets on the same rhyme. It seems more likely that "musce" is present tense and the predicate of "Li chapelein." The line would then be one syllable short and grammatically incomplete. Emend to "[sei] musce."

- |    |                                |    |                                       |
|----|--------------------------------|----|---------------------------------------|
|    | Le vs unt ouert . e entre einz |    | Plest <i>vus</i> ke ieo hors la remue |
|    | Li sire out estraunge genz     |    | Dist la dame nu'freez                 |
| 16 | La quisine fet haster          |    | Ja la mein . ne i'meterez             |
|    | Ore endreites vout manger      | 28 | Va t'en tost ieo le enuerai           |
|    | Il vnt laue e sunt asis        |    | Si tost cum fere le porai             |
|    | Mult ben fet servir ses amis   |    | Cele se turne a l'ostel vient         |
| 20 | Ataunt i vint vne meschine     |    | Sa dame lui maunde ne le as tu nient  |
|    | Devaunt la dame sei encline    | 32 | Arere cur si tu ne le as              |
|    | Munseignur vint ore a l'ostel  |    | Ieo memes vendrai pur pas             |
|    | Sun bain comaunda aprester     |    | Cele returne . tauntost curut         |
| 24 | Pur sa cuue sui uenue          |    | Li syre demaunde . quei ele ust       |

14 Read "L'us"; cf. 8, 11. "Einz" is for "enz," and rhymes normally with "genz." The *punctus* here and at 27, 34–36, 42, 50, and 54 seems to mark a caesura. For the occurrence of this phenomenon in *Saint Brendan* and the works of Gaimar, see Mary Dominica Legge, "La versification anglo-normande au XII<sup>e</sup> siècle," in *Mélanges offerts à René Crozet*, ed. Pierre Gallais and Yves-Jean Riou, 2 vols. (Poitiers, 1966), 1:639–43.

15 One syllable short. Read "sires"; cf. 1. For "out" read "od" ("with"); cf. 38.

16 One syllable short. An irregular number of syllables in the line is not an unusual feature of Anglo-Norman verse, and where, as here and at lines 24, 26, 27, and 47, the text offers no guidance as to what might be missing, emendation by the addition of an extraneous word is arbitrary. Emending to "La quisine fet [il] haster," however, offers a satisfactory line.

17 Read "Orē."

24 One syllable short. "Pur sa cuue sui [ci] venue" would be a possible emendation.

25 On *remuer*, see AND, 627.

26 One syllable short. Contracted future forms such as "freez" and "friez" (39) are characteristically Anglo-Norman; see Pope §§ 1134, 1290. "[Vus] nu ferez" would be a possible emendation.

27 One syllable short. Hiatus ("nē i") is possible; or read perhaps "[Ne] ja la mein n'i meterez." For typically Anglo-Norman augmented forms with vocalic glide, of which "meterez" is an example, see Pope §§ 1173, 1290.

28 One syllable short. In this line the scribe appears to have created a problem as a result of eye-skip between "t'en" and "tant" (cf. "t'ent" and "tant" in line 40). "Le" is for feminine "la (cuve)," a common phenomenon in Anglo-Norman; masculine pronouns referring back to the same feminine antecedent continue through 31 and 32, and cf. 36. Emend the line to read "Va t'en tauntost; jeo l'enverai." The mixture of 2d-pers. sing. and pl. forms in this and the preceding line, though widespread in Anglo-Norman, is also encountered in Continental French; cf. 38–39.

31 Two syllables too long. "Dame" may be an Anglo-Norman monosyllabic form, cf. "syre" (35); "maunde" may be for "demaunde." Read perhaps "Sa dam' demaunde: 'Ne l'as tu nient?'"

33 One syllable short. Corruption results from the loss of the first element in the expression "pas pur pas" ("[to walk/advance] in a measured, leisurely, or deliberate manner"). See T-L 7:407.

35–36 "Syre" may be an Anglo-Norman monosyllable; cf. "dame" (31). The second request for the return of the tub is either omitted or taken as said. "Ele" must refer to the wife as she is the addressee of the imperatives of the following line. These cannot be attributed to a servant. "Ust," an imperfect subjunctive form, makes no sense; it stands for preterite "ot," with

- |   |   |
|---|---|
| <p>36 Rendez li tost . ne le retenez<br/>         La dame fu mult esmaiez<br/>         Ca vien dist ele od mei parlez<br/>         E ie te dirai ke en'friez<br/>         40 Arere t'ent va tant tost curaunt<br/>         Ta dame di ke ico li maunt</p> | <p>44 Ke ia ne m'urge . a deu ne place<br/>         Desque el bosoin de dame sace<br/>         Kaunt sa veisine oi le aueit<br/>         Dunc purpense mult estreit<br/>         En sa quisine tost ala<br/>         La mesun pus aluma</p> |
|---|---|

the meaning "The husband asks what had got into her." For this construction, see T-L 1:756. "Li" is for "la li," and "ne le" ("nel") is for "ne la"; cf. 28.

37 "Esmaiez" sacrifices grammar for rhyme.

38-39 For the mixture of 2d-pers. sing. and pl. forms, see 28. For the contracted future "friez," see 26.

40 "Are t'ent" in Hilka and Söderhjelm, *Disciplina Clericalis III*, 146. The manuscript reading "ent" for "en" is retained as common in AN; cf. AND, 212-13, s.v. *en*<sup>2</sup>. With the manuscript reading "Arere" restored, the line is one syllable too long. The syllable count could be regularized by reading "Arer" without final *e*, a possible form attested in AND, 37. Alternatively the problem may stem from the same basis as in the short line 28, with scribal confusion between "t'ent" and "tant" resulting in this instance in the proliferation rather than the loss of one of these elements, either of which might be suppressed to produce an acceptable line: "Arere t'ent va tost curaunt" or "Arere va tant tost curaunt."

41 Though the retention of the older, non-analogical verbal form "maunt," confirmed by the rhyme, might be seen as pointing to an early date, Tanqueray, 14, lists several examples of such forms surviving well into the fourteenth century.

42 The reading "m'urge" (adopted by Hilka and Söderhjelm) is problematic, *urger* being a postmedieval verb, and although the manuscript's "murge" could be taken as a present subjunctive form of *morir* ("to die"), this would yield little sense. One possibility is to emend to "Ke ne demurge," exploiting an Anglo-Norman present subjunctive form of *demurer* (on this form, see Tanqueray, 357-58; Pope §§ 910, 1275; AND, 155), and permitting the following translation: "... that I instruct her that she does not delay long—God forbid!—before she becomes aware of a lady in need." On the construction *ne demorer que*, which is also used with an impersonal subject as "not to be long before," see T-L 2:1383-85. It should be noted, however, that the exchange in lines 41-43 is presumably the equivalent of lines 102-6 in the *A* version of *Le Cuvier*, in which the maid returns empty-handed and explains to her mistress why the neighboring housewife has not returned her tub: "Non dame, par le fil Marie, / Ainz dist bien c'onques ne seüstes / Qu'est besoing, n'onques ne l'eüstes; / Quar, se tres bien le seüssiez, / Ja hasté ne li eüssiez." Appearance of the verb *haster* in this context cannot be accounted for by reference to *demurer*. It would, however, serve quite satisfactorily as a translation of Latin *urgere* ("to urge, press, solicit"), and suggests that the word "urge" in *h* may be a Latinism adopted from the Latin narrative source materials for *h* (discussed below). That being the case, the author of *A* either identified "urge" as a Latinism derived from *urgere*, if he was reworking a version of *h*, or translated as *haster* some form of the verb *urgere* which he encountered in a Latin source-narrative common to both *h* and *A*.

43 "El" could be a reduced feminine personal pronoun, but is more likely a contraction of *en* and *le*.

45 One syllable short. The emendation by Hilka and Söderhjelm, "purpense [sei] mult," might help explain the omission: the scribe would have just written *-se* at the end of "purpense." Alternatively, "[sei] (or [se]) purpense" is also possible, and conforms better with reflexive verb usage at 21.

47 One syllable short. "[E] la mesun pus aluma" offers a satisfactory line, but is of necessity an arbitrary emendation.

- |   |  |
|---|--|
| 48 Le uches mult haut ad fet leuer<br>Pur la dame desencumbrer<br>Le cri i'uint . il leuent sus<br>La table tresseilerent tuz | 52 Ne remist en le hostel vn sul<br>Fors la dame e sun lecheur<br>La cuue en oste . e il s'en vet<br>Des ore en unt il nul pleit |
|---|--|

48 "Le uches" no doubt shows corruption of *huchier* ("to shout"), the substantive form of which is "huchie(e)" (T-L 4:1206). On "lever le hu," see T-L 4:1196, s.v. *hu*; AND, 356. Emend to "Le hu."

49 On "desencumbrer," see AND, 169.

51 Perhaps "abandoned their meal," though the more literal "leapt up from / over the table" may be more appropriate; see T-L 10:626–27, s.v. *tressalir*; AND, 820, s.v. *tressailir*.

54–55 Orthography notwithstanding, the rhyme is between "vait" and "plait."

## II

As long as *Le Cuvier* was known only in the independent version *A* there were few clues available to guide any investigation aimed at identifying its possible origins. The presence of version *h* among the fables of a version of *DC* sheds new light on this area of enquiry. The plot of *Le Cuvier* is demonstrably a concatenation of motifs traceable to those secular Latin narratives which appear in elegiac verse among the twelfth-century *comœdiae*, and in prose among the fables of such collections as *DC* and the *Gesta Romanorum*.<sup>11</sup> Of particular interest for *Le Cuvier* are two of three stories appearing uniquely in a version of *DC* preserved in Cambridge, University Library II.6.11.<sup>12</sup> The third story, which W. H. Hulme entitles

<sup>11</sup> One tale makes appearances in all three of these contexts. It is tale XIX, "Exemplum de duobus burgensibus et rustico," in the Latin text of *DC* as edited by Alfons Hilka and Werner Söderhjelm, *Petri Alfonsi Disciplina Clericalis I: Lateinischer Text*, Acta Societatis Scientiarum Fennicae 38.4 (Helsinki, 1911), 27–28. As a Latin *comoedia* with the title *De Clericis et Rustico* it has been edited and translated by Maurice Janets in Gustave Cohen, *La 'comédie' latine en France au XII<sup>e</sup> siècle*, 2 vols. (Paris, 1931), 2:244–50. Finally, it appears as Cap. 106, *Quod est vigilandum contra fraudes diaboli, ne nos decipiat*, in *Gesta Romanorum*, ed. Hermann Oesterley (Berlin, 1872), 436–38.

<sup>12</sup> Printed as Appendix II in Hilka and Söderhjelm, *Disciplina Clericalis I*, 68–73, together with a largely incoherent Middle English translation from Worcester, Cathedral F. 172. For the complete text of the English version of *DC* from this fifteenth-century manuscript, see *Peter Alphonse's Disciplina Clericalis*, ed. William Henry Hulme, Western Reserve University Bulletin, n.s., 22.3 [Western Reserve Studies 1.5] (Cleveland, 1919). The three stories which concern us, nos. 28, 29, and 30, are on pp. 66–71 in Hulme's edition, which makes only minor changes to the text published by Hilka and Söderhjelm. The Cambridge manuscript, dating from the thirteenth century, is described by C. Hardwick et al., *A Catalogue of the Manuscripts Preserved in the Library of the University of Cambridge*, 5 vols. and index (Cambridge, 1856–67), 3:506–9.

"The Unchaste Wife and the rescue of her Lover" (hereafter "The Unchaste Wife"), begins as follows in the Latin version:

Erat vir quidam praepotens, habens uxorem. Qui quadam die a domo sua itineris spacio unius diei ad quoddam placitum perrexit. Mulier vero per sui viri absenciam quendam clericum, amatorem suum, sub obscura nocte advocavit. Qui cum obsceno concubitu perfruerentur, ex improvise maritus rediit, obvium enim fuerat in itinere qui placitum protelaverat. Cui venienti omnis familia cum luminaribus occurrit. Quod clericus audiens, quo verteret se penitus ignoravit. Tandem latenter egressus et prae nimio pavore stupefactus, quid ageret, quo se verteret vel per quem aditum a curia exiret, penitus ignorabat. Audiebat enim omnem familiam, ut sit in tali negocio, commotam et ad ea, quae domino et sociis suis et equis erant necessaria, praeparanda huc illucque cursitantem. Interim mulier, quam impia mordebat consciencia, pro metu, ne cum clerico caperetur, sollicita occurrit marito, verbis delinans, ne aliquid suspicaretur de perpetrata nequiscia, volens si posset non solum eum, sed socios omnes simulata leticia, ne alicuius rei gracia foras egrederentur, quasi tam citae regressionis causas requirendo, se lactam in quantum poterat contra amicum ostendendo, retinere. Miser vero in angulo latitans propter metum familiae, donec omnes sopirentur, non est ausus a curia exire; sciebat enim se privari vita, si eum tali hora ibi invenisset aliquis de domini familia. Qui in tanta positus angustia, nullius reperiens fugae subsidia, vidit tonellum ex ima parte fundo carentem intra domus atria. Quem dum vidit, illuc tendit, volens ibi se abscondi; subintravit imminensque periculum evadere sic speravit.<sup>13</sup>

The text to this point furnishes a number of the essential features of *Le Cuvier*: the husband's announced absence, the wife's summoning of a clerical lover, the husband's unexpected return with companions whose presence makes demands on the hospitality of the hostess, and the plight of the lover forced to seek sanctuary within a household from which he cannot immediately escape. With his chosen refuge, a barrel, the story begins to deviate from that of *Le Cuvier*, however, and the deviation becomes more pronounced in the farcical episodes which follow. The clerk is joined in the barrel by a bear which broke its chain when the excitement created by the husband's return subjected it to intolerable stress. The household servants attack the closed end of the barrel as a means of extricating the bear, and the lover tries to frustrate their efforts while struggling to expel his unwelcome ursine companion at the other, open end. He is eventually successful in the latter attempt, and thus saves himself from detection.

<sup>13</sup> Hilka and Söderhjelm, *Disciplina Clericalis* I, 72-73.

There is a much closer parallel to the development of *Le Cuvier* in the first of the three stories from the Cambridge manuscript, "The Knight in exile and his Friend whose Wife played him false" (hereafter "The Knight in exile"). In this tale a husband attempts on three separate occasions to trap in compromising circumstances a friend and business associate who has inadvertently betrayed his continuing sexual liaison with the man's wife. The first such endeavor proceeds in this manner:

Adest ille dominus domus, qui se longius simulaverat ire; improvisus adest. Sub alveo in quo loricam rotare armiger solebat, occulitur adulter. Non invenitur studiose quesitus; cum fatigatus rixaretur dominus, ipso (?) quod manu tenebat tamdiu pulsavit alveum iuxtaquem constiterat, ut eo perforato eciam socium parum sauciaret. Finito postmodum iurgio et eo digresso . . . exit miles. . . .<sup>14</sup>

This episode briefly describes a situation similar to that at the start of "The Unchaste Wife" and *Le Cuvier*, except that the husband announces his projected absence for the express purpose of catching his wife in adultery. On his return, the lover's recourse to an upturned tub (*alveus*) as hiding place creates a circumstance identical to that in *Le Cuvier*, and permits the same sort of comic development, byplay between husband and wife reflecting her consciousness of the threat posed by the husband's unwitting proximity to the hidden lover. On two other occasions the lover escapes detection, by hiding first behind a door, and then in a linen basket.

None of this contributes anything further to our understanding of the origins of *Le Cuvier*, and despite the importance of the tub as hiding place, the significance of "The Knight in exile" as a source for *Le Cuvier* might be thought negligible except that the story from Cambridge II.6.11 is a version of the story which also appears in a Latin *comoedia*, the *Miles gloriosus*.<sup>15</sup> This latter text has the same three attempts by a husband, accompanied this time by his three brothers-in-law, to trap his wife in a sexually compromising situation. In the *Miles gloriosus* the lover hides, successively, behind a tapestry, under a mattress, and in a locked chest. Only the last of these is important for our purposes. Suspecting that the lover might be hidden in the chest, the husband attacks it with an axe, in much the same fashion as servants attacked the barrel protecting the lover in "The Unchaste Wife." In this instance, however, the lover cannot be saved by the expulsion of the bear which was the immediate quarry in that tale. The dénouement is complex and quite different:

<sup>14</sup> Ibid., 69.

<sup>15</sup> Ed. and trans. Robert Baschet, in Cohen, *La 'comédie'* 1:179–210.

Quis queat huic morbo nisi femina sola mederi?  
 Preuenit una decem femina fraude uiros.  
 Feminee fraudis miracula mechus adorat;  
 Vt mecho liceat uiuere mecha facit.  
 Hec loquitur digitis; digitos intelligit una  
 Cuius in offensam senserat illa fidem:  
 Hec imbuta dolo, celeri premit igne popinam;  
 Vim propere loquitur garrula flamma suam.  
 Archa prius metuens sperat cessante securi;  
 Hoste carens, subiti percipit ignis opem.  
 Est aqua pro ferro, pro cista flamma feritur;  
 Pugna fit ut fusas senciat ignis aquas.  
 Dum labor est aliis ignem sopire puellis,  
 Conditā uicinam mutuāt archa domum.  
 Tempore freta bono, cum sciret abesse periculum,  
 Ad loca nota redit: claue iubente, patet.  
 Exit Eques.<sup>16</sup>

Here then is the exact ruse employed to effect the lover's escape in version *h* of *Le Cuvier*, a ruse considerably modified by the *remanieur* of version *A*, who dispenses with any actual fire and allows the neighbor to create the necessary diversion by employing the services of a local indolent to cry "fire" falsely in the street.<sup>17</sup> The episode from *Miles gloriosus* also supplies the astute and helpful female coconspirator, here in the person of a servant girl, and establishes the part played by a neighboring house, which in conjunction with the house of the adulteress permits the real or threatened transportation back and forth of the vessel containing the lover.

Between them, these three closely associated Latin texts account for the major and essential ingredients of *Le Cuvier*. All that is required to integrate them is the idea that the tub should be borrowed from a neighbor for the purpose of a little recreational mixed bathing, and that the neighbor should inopportunately request its return before realizing its function as an improvised place of concealment.

Insofar as the differences between versions *A* and *h* of *Le Cuvier* parallel those between the 'A' and 'B' versions of the French text of *DC*, they might be similarly accounted for as deriving, according to the explanation proposed by Hilka and Söderhjelm, from independent translations of a Latin source. The implied existence of a Latin text combining disparate

<sup>16</sup> Ibid. 1:204, lines 209–25.

<sup>17</sup> Without the benefit of any knowledge of version *h*, Edmond Faral associated the burning of the kitchen in *Miles gloriosus* with the fake fire alarm in version *A* of *Le Cuvier*, but he did not pursue the analogy; see "Le fabliau latin au moyen âge," *Romania* 50 (1924): 358.

motifs into a coherent narrative constructed around the borrowing and reclamation of a tub cannot be substantiated, but equally the possibility that *A* and *h* derive independently from such a putative source cannot be ruled out. Versions *A* and *h* have no rhymes in common, and no line in either closely resembles its counterpart in the other. There may be some interrelationship between the passage in *h* (40–43) containing the adulterous wife's instructions to her neighbor's maidservant and some corresponding passages in *A* (94–98, 103–6), but it hardly constitutes a *rencontre textuelle* sufficiently striking to demonstrate convincingly that both *A* and *h* share some ancestral French *mise en forme*.<sup>18</sup> Yet even that possibility cannot be excluded.

If the line of descent is not direct for both *A* and *h*, then *h* is the more likely candidate to claim such a direct relationship to its sources, while *A* would appear to have been generated laterally at some point along the stemma. The single most distinctive feature of *A* is the author's treatment of the concluding episode, derived ultimately from the *Miles gloriosus*. He radically modifies the staging of the incendiary diversion, introducing the new figure of the *ribaut*, and complicating the stratagem by fictionalizing the fire. The kind of bare narrative offered by *h* might be explained as the product of a compression and simplification of the *A* version, but this is unlikely since it would mean that the redactor of *h*, in revising *A*, accidentally recreated an element that first appears in the Latin *comoedia*: the bold recourse to an actual act of arson. It is equally unlikely that *A* results from a revision of the form of the *h* version that survives in Harley 527. Version *A* of *Le Cuvier* preserves from "The Unchaste Wife" an extended concern with the wife's duplicity in feigning pleasure at the very unwelcome arrival of her husband and his guests (*A*: 41–47):

Et li borgois descent a pié,  
Dont ele n'ot pas son cuer lié  
Qu'il est venuz a cele foiz.  
"Sire, dist ele, bien veignois  
Et vous et vostre compaignie!"  
Dist ele, mes ne vousist mie  
Que il fust venuz a cele eure!

Nothing of this survives in the sparer narrative of *h*. Whether *A* has been translated directly from a Latin text affiliated with "The Unchaste Wife" or whether it derives from some French antecedent of *h* is not susceptible

<sup>18</sup> The appearance of the possible Latinism "urge" in the passage from *h* has an important bearing on this issue; see the note to line 42 of the diplomatic text of *h* above.

of final demonstration, but some evidence does exist to support the possibility of the second alternative.

From the comparatively corrupt state of *h* we can conclude with some confidence that the scribe of Harley 527 was not responsible for much change to his exemplar beyond the introduction of careless errors. Comparison of the *h* and *D* versions of *DC*, however, indicates that *h* represents a form of 'B' which has been fundamentally reworked to produce significant changes in both content and form. The *h* version of *DC* not only includes *Le Cuvier*, which is not found in *D*, but also alters some of the pieces it shares with *D*. Uniquely in *h*, for example, the *entremetteuse* in *Lisette* claims that her daughter has been blinded in punishment for her refusal to grant her sexual favors to a disconsolate suitor, rather than suffering transformation into a weeping cat or dog as in the analogues to this version of the tale. The text of *Lisette* is reduced from 180 lines in *D* to 128 lines in *h*, and this conforms to a penchant for abbreviation evident throughout the *h* version of *DC*. It will be convenient to attribute these disparate but not discordant changes to the activities of a single *remanieur*. The validity or invalidity of such an assumption will not seriously compromise the emergent picture of a possible earlier version of the *h*-text of *Le Cuvier* that can be hypothesized from a comparison of *h* and *D*.

The *remanieur* responsible for integrating a version of *Le Cuvier* with a French text of *DC* has chosen the point of insertion assiduously. It occurs after the narration of three antifeminist fables (*Charma*, *Le Velours*, and *L'Espée*) and replaces the story of the weary minstrel who tries to escape his king's demands for more entertainment by threatening him with the interminably boring account of ferrying two hundred sheep across a river. The son's request at the conclusion of *L'Espée* to hear more about the wiles of women (" 'Beau pere,' dist il, 'or avant: / Des femmes ne lessez atant!' "). a request common to *h* and *D*,<sup>19</sup> is gratified rather than frustrated, and the antifeminist litany, rather than reemerging after a brief hiatus, continues smoothly in *h* with the stories of *Le Cuvier*, *Lisette*, and *Puis*. The process by which the newly introduced tale is integrated with its context is instructive for an understanding of the *remanieur*'s methods. The transition from the conclusion of *Le Cuvier* to the beginning of *Lisette* is effected with a couplet gleaned from a longer passage at the end of *Charma* in *D*:

E dist li fiz: "Par fei, bel pere,  
Ceste fu de male manere.

<sup>19</sup> Hilka and Söderhjelm, *Disciplina Clericalis III*, 99, lines 1227–28.

Uncor me plerreit plus oïr  
 De lur engin pur mei guarnir.  
 Cuntez mei, si vus plest, avant,  
 Kar d'oïr ai talent mult grant!"  
 "Volentiers," le pere li dit,  
 "Quant tu i as si grant delit."<sup>20</sup>

These eight lines are reduced to two couplets, one of which furnishes a conclusion to the *h*-text of *Charma* ("E dist li fiz: 'Plus voil oïr / De lur engins pur mei garnir' "), while the other serves to end the interpolated tale of *Le Cuvier* ("Respunt li fiz: 'Cuntez avaunt! / Talent de oïr en ai mut graunt' ").<sup>21</sup> This competent if unadventurous trimming and redeployment of the materials of his copy text typifies the *remanieur*'s practice throughout the manuscript.

The same proclivity to condense his copy text is probably responsible for the very abrupt opening of the *h* version of *Le Cuvier*, which may reflect a deliberate stylistic choice rather than a degree of ineptness in integrating a new tale into a preexistent compilation. We have no knowledge, naturally, of what the opening of *Le Cuvier* might have been prior to its appearance in *h*, but the form of its opening there is no more precipitate than that of another fable, *De un vilein e de .i. lou et de .i. gopil*: "Cur[u]cé fu li caruer, / Ke li beufs ne vout a dreit aler,"<sup>22</sup> with which we can compare the much fuller version preserved in *D*:

"Ja dis," dit li peres, "avint  
 K'un vilein sa charrue tint.  
 Li boef ne voldrent dreit aler  
 Cum li vileins les vout mener.  
 Li vileins fu mult curreçus."<sup>23</sup>

Of more immediate concern for the relationship of the *h* and *A* versions of *Le Cuvier* is the nature of the materials which the *remanieur* saw fit to excise from his putative source in the 'B' version of *DC* (as represented by *D*) in order to reduce his narrative to bare essentials. The changes are not haphazard but systematic; the pattern which emerges can be illustrated with a glance at the differences between the *h*- and *D*-texts of *L'Espée*. At the moment when the husband returns unexpectedly, *D* devotes four lines to describing the shift from joy to dismay experienced by his wife and

<sup>20</sup> Ibid., 98, lines 1115–22.

<sup>21</sup> Ibid., 145 and 147.

<sup>22</sup> Ibid., 154; the title of the fable is from the *D* version, *ibid.*, 121.

<sup>23</sup> Ibid., 121, lines 2605–9.

mother-in-law: "Trestut lur esbancement / Est ja turné a marrement. / N'i out leu u celui butassent, / U si en haste le muçassent."<sup>24</sup> These two couplets are dispensed with completely in *h*. Equally instructive is the *remanieur*'s treatment of a passage where the mother-in-law mendaciously explains to the husband the presence in his house of the wife's lover, who she claims is a fugitive from the vengeance of an irate master:

*D*<sup>25</sup>

"Quant il vus oï a cel us,  
Esfreeé fu, si sailli sus;  
Grant poür out, ço m'est avis  
Ke fussiez de ses enemis."  
E li prudhum se fist mult lé,  
Quide ke deïst verité  
E dist: "La Dampnedeu merci,  
Ke vus l'avez de mort guarî!"

*h*<sup>26</sup>

"Kaunt il wus oï, sailli sius  
Ses enemis quida de vus."  
E li produme se fist mult leé  
Ke sa vie aveit gardeé.

The passages cut or compressed concern the *D*-author's attempts to articulate what transpires in the minds of his protagonists. The effort towards creating an objective narrative freed from psychological speculation can be discerned throughout *h*, and may be assumed to have affected that text's version of *Le Cuvier*. Behind the skeletal narrative preserved in Harley 527 may be perceived a somewhat fuller account which takes greater cognizance of the thoughts and feelings of the characters than does *h*. Such a treatment would be considerably closer to *A*, which in large measure varies from *h* precisely on the basis of amplifying the narrative with authorial comment on the characters' psychological reactions to the events of the story. While the passage quoted earlier from *Le Cuvier* (*A*: 41–47) may derive from a similar passage in "The Unchaste Wife," it is not therefore necessary to assume that the *A*-author got it directly from that source, since it may have been preserved in the ampler version of *h* which existed before a systematic revision denuded it of most of this material.

### III

*Le Cuvier* is one of approximately seventy works identifying themselves as fabliaux: "Tout ainsi cis fabliaus define" (*A*: 150). It satisfies all the formal criteria common to the great majority of these texts by (1) its brevity,

<sup>24</sup> Ibid., 99, lines 1185–88.

<sup>25</sup> Ibid., 99, lines 1213–20.

<sup>26</sup> Ibid., 146.

(2) its verse form (octosyllabic couplets), (3) the fact that it is a narrative, (4) its independence from any more extensive compilation, and (5) the human nature of its protagonists.<sup>27</sup> It appears among the fifty-nine fabliaux in Paris, Bibliothèque Nationale fr. 837, in the printed editions of Barbazan (1756) and of Montaiglon and Raynaud (1872–90), and in the fabliau inventories of Bédier (no. 42) and Nykrog (no. 43). Its status as a fabliau has never been questioned. The tale told in *h* does not identify itself as a fabliau contextually. The closest claim for such an identification would be that it follows in *h* three tales classified as fabliaux in the *A*-text of *DC*:

“Cez treis fableaus que dit m’avez.  
Mais, cheles, pere, or vos hastez  
Et si recomenciez le quart,  
Quer certes, beaus pere, il m’est tart  
Que li quarz seït recomenciez,  
Quer n’en puis estre asaziez!”<sup>28</sup>

In the *D*-text of *DC*, however, the exchange between father and son identifies the tales only as “Des femmes . . . / Treis cuntes.”<sup>29</sup> and *h* lacks the exchange entirely. The story of *Le Cuvier* in *h* satisfies all the general fabliau criteria enumerated above with the notable exception of criterion 4. Comparison of the *A* and *h* versions of *Le Cuvier* offers a valuable opportunity, therefore, to probe the relationship between two versions of a story variously classified as fable and fabliau, and to test the validity of the criterion (4) used to differentiate them generically. The following discussion will address three questions of fundamental importance to the resolution of this issue. Do *A* and *h* offer us essentially identical versions of the same *histoire*? If so, are the evident stylistic differences between the two *réçits* generically definitive?<sup>30</sup> If not, can such generic distinction be systematically predicated on differences of context, specifically the presence or absence of some incorporating framework capable of controlling the nature of the audience’s response to the tale?

*A* and *h* differ dramatically in length, the former comprising 150 and the latter only 55 lines. Their cast of characters is not identical, *A* alone featuring a maid for the merchant’s house and a *ribaut* hired by the neighbor to cry fire in the street. There are also differences in episodes. Only in *A* does

<sup>27</sup> For a discussion of the criteria governing selection of texts for *NRCF*, see Willem Noomen, “Qu’est-ce qu’un fabliau?” in *XIV Congresso Internazionale di Linguistica e Filologia Romanza (Napoli, 15–20 Aprile 1974): Atti*, 5 vols. (Naples, 1978–81), 5:421–32.

<sup>28</sup> Hilka and Söderhjelm, *Disciplina Clericalis III*, 27, lines 1449–54.

<sup>29</sup> *Ibid.*, 100, lines 1235–36.

<sup>30</sup> The terminology employed here is from Gérard Genette, *Figures III* (Paris, 1972), 72.

the merchant throw a tablecloth over the upturned tub (under which the clerk is hiding) to improvise a buffet. In *h* the neighbor's maid makes two trips to request return of the tub, in *A* only one. Only in *h* does the helpful neighbor set fire to her own kitchen to create a diversion which in *A* is effected by a less dangerous stratagem. Differences between the two works are in no way explicable as *variantes de copiste*. They may reflect independent translation from some common Latin source. Alternatively they may result from a process of redaction which has transformed the texture of the tale to a degree not incompatible with some intervention of memorial transmission. According to the criteria developed by Rychner, *A* and *h* are tales "de même sujet, mais de filiation incertaine" where "l'identité des sujets rapproche, en effet, des pièces qui, du point de vue du métier littéraire, accusent de remarquables différences."<sup>31</sup> Given the number and significance of the variants between *A* and *h*, their identity as *histoires* cannot be assumed. It may be demonstrated with the help of a formula proposed by one of the general editors of *NRCF*, that tales are related as independent versions of the same *histoire* when "les principaux actants sont identiques quant à leurs rapports avec les événements."<sup>32</sup>

Version *A* of *Le Cuvier* has been the subject of a detailed actantial analysis by Mary Jane Stearns Schenck aimed at extrapolating the social values articulated through the narrative development of a typical fabliau.<sup>33</sup> The objectives and the nature of this investigation required that the typicality of *Le Cuvier*, and consequently the validity for the genre as a whole of the conclusions reached, should be taken on trust. The different intent of the present study to examine relationships between fable and fabliau requires an actantial model which will facilitate comparison of *A* and *h* not only with one another but also with other constituent members of the group of tales to which both versions of *Le Cuvier* belong, a miscellany of fables and fabliaux united by the general theme of "ruses d'une femme pour se tirer d'un mauvais pas."<sup>34</sup> Examined from this perspective, Schenck's model, which invests the axis of desire as sexual desire, and makes the lover the object of the subject-wife's actions, has some serious defects. Chief amongst these is the fact that a misreading of the narrative syntax marginalizes the part played by deceit and trickery in the intrigue which is the one factor common to all members of the group of tales, and

<sup>31</sup> Rychner, *Contribution* 1:28.

<sup>32</sup> Nico van den Boogaard, "Les fabliaux: Versions et variations," *Marche Romane* 28 (1978): 151.

<sup>33</sup> Mary Jane Stearns Schenck, "Les structures narratives dans *Le Cuvier*: Une étude sémiotique d'un fabliau," *Marche Romane* 28 (1978): 185-92.

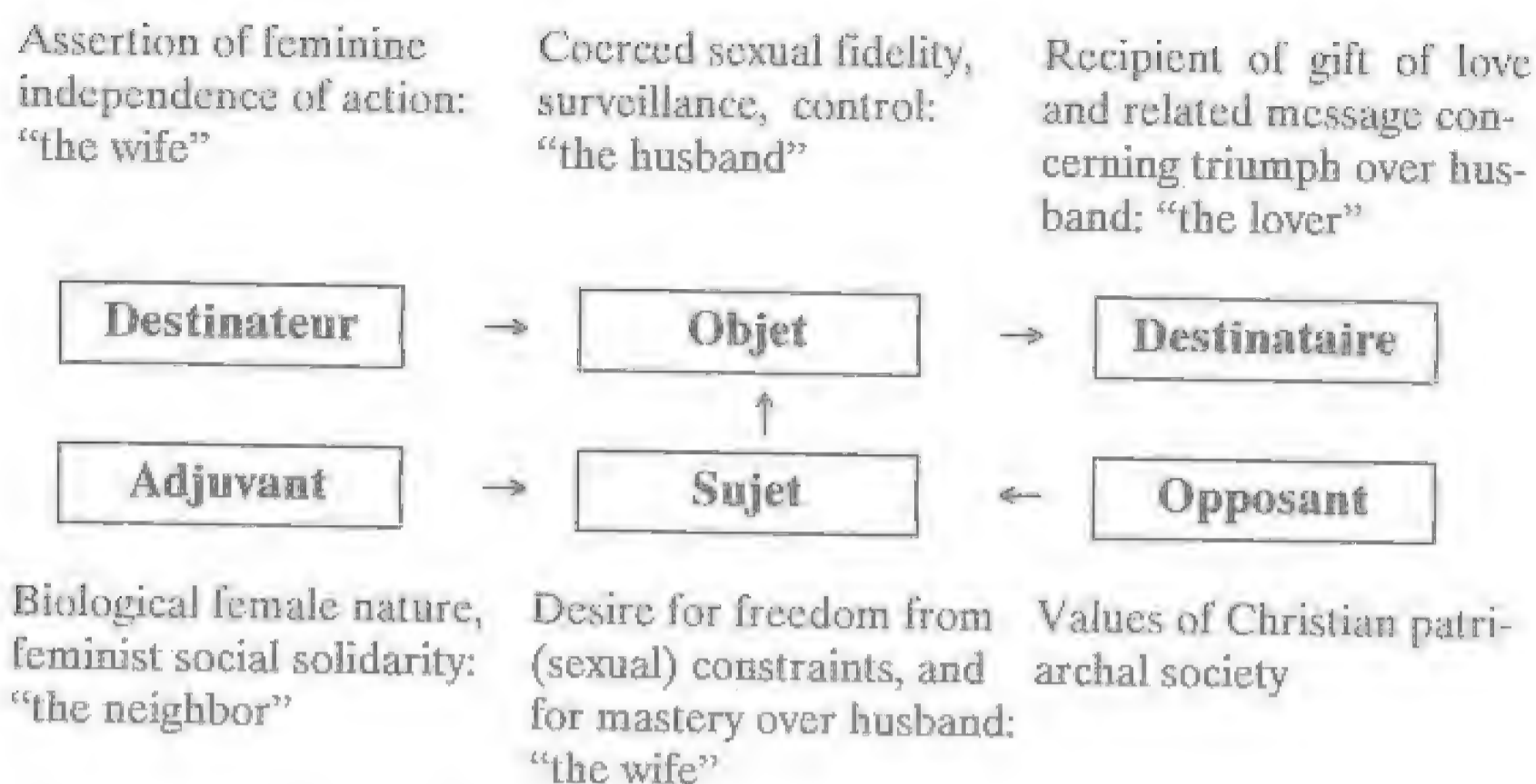
<sup>34</sup> Rychner, *Contribution* 1:11; see also Nykrog, *Fabliaux*, 16.

distorts the proportionality of the functions fulfilled by the characters. The distribution of roles proper to *Le Cuvier* and associated tales can be deduced from the terms stipulated for a competition between three women vying for possession of a ring in version I of *Les trois Dames qui troverent l'anel*, an anthology-fabliau containing three tales in the "ruses d'une femme" group. There it is resolved that the ring should be awarded to the wife "Qui son mari mieus guileroit / Por fere a son ami son buen."<sup>35</sup> This statement clearly identifies the husband as the direct object, and the lover as the indirect object of the wife's machinations, and gives rise to an actantial model of the following type:<sup>36</sup>

<sup>35</sup> For the two distinct versions (I and II) of this fabliau, see *NRCF* 2:215–40 and 407–10. The lines quoted are from the critical text of version I, lines 6–7. For a discussion of the nature of a group of works, not exclusively fabliaux, with which *Les trois Dames qui troverent l'anel* shares certain essential characteristics, see Roy J. Percy, "The Genre of William Dunbar's *Tretis of the Tua Mariit Women and the Wedo*," *Speculum* 55 (1980): 58–74.

<sup>36</sup> Readers not familiar with the methodology of Greimas and its terminology may refer to Schenck's article, "Structures narratives," for a useful brief introduction. The system as a whole is expounded in A.-J. Greimas, *Sémantique structurale: Recherche de méthode* (Paris, 1966), and *Du sens: Essais sémiotiques* (Paris, 1970). The earlier work has been translated, with a long introduction by Ronald Schleifer discussing the methodology, in *Structural Semantics: An Attempt at Method*, trans. Daniele McDowell, Ronald Schleifer, and Alan Velie (Lincoln, Nebr., 1983).

As proof of the superiority for my purposes of the model presented here over that proposed by Schenck, the following two facts may be taken into consideration. (i) In three versions of tales belonging to the "ruses d'une femme" group—"The Husband made monk" from version II of *Les trois Dames qui troverent l'anel*; the same tale from a fable, no. 231, in *The Exempla or Illustrative Stories from the Sermones Vulgares of Jacques de Vitry*, ed. Thomas Frederick Crane (London, 1890); and "The Cooked Fish" from version II of the fabliau—there is no figure of the lover, although he does appear in the corresponding tales of version I. An actantial model where the object actant is not semanticized is unacceptable. If the lover is not available to invest the *destinataire* actant, however, this requires no profound modification of the model, and his role may be substituted, as it is for example in version II of "The Cooked Fish" by neighbors summoned to witness the husband's humiliation at the hands of his wife. (ii) The second female figure who comes to the wife's assistance in *Le Cuvier* is appropriately cast as the *adjuvante* in the actantial model proposed by Schenck and in the model I propose here. Her role is precisely duplicated in tale No. 251, "Seeing Double," in the *Sermones Vulgares* of Jacques de Vitry. In two other instances, however, *Le Velous* and *L'Espée* from DC, where the second female figure is the wife's mother, she is by far the most active figure in devising and implementing the plot to deceive her son-in-law, and unless the syntax and balance of the actantial model is to be violated, she must be assigned the subject role, while her daughter's is relegated to that of *adjuvante*. This interchangeability of subject and *adjuvante* roles poses no problem as long as the axis of desire is invested as rebellion against male authority and the promotion of freedom of action for the female members of the husband/son-in-law's household. If the axis of desire is invested as sexual desire, such a substitution is impossible, and the model appears flawed in its incapacity to deal with the variants it is required to subsume.



As noted earlier in this section, the cast of characters in *A* exceeds by two that in *h*, which makes no mention of the *ribaut* hired by the helpful neighbor to facilitate the lover's escape, and assigns no maid to the merchant's household. Neither character plays any significant role in the semantic investment of actants. The *ribaut* does not appear in Schenck's composite actantial model, and while the maid (*la servante*) is classified as an *adjuvante* because of her activity in defending the door of the house, Schenck acknowledges that "son rôle est très faible."<sup>37</sup> Absence of these two figures from *h* does not therefore invalidate the contention that in comparison with *A* "les principaux actants sont identiques quant à leurs rapports avec les événements" (see above).

More important as a possible source of differences between *A* and *h* is the respective semanticization of the principal actants, a feature to which Schenck devotes considerable attention. One pole in the dyadic opposition of human and material values, an opposition which pervades version *A* of *Le Cuvier* according to her analysis, is filled by the merchant husband. His entrepreneurial activity (*A*: 5–8), his anxiety to limit any interruption of his trading ventures (*A*: 48–56), and his promotion of what he considers proper conduct in the borrowing and return of goods (*A*: 83–86) indicate "qu'il est motivé par le travail et que son objet est la marchandise ou le profit qui sont des valeurs du système économique."<sup>38</sup> All three of the passages quoted from *A* recur in *h*, although in briefer form. Here too the

<sup>37</sup> Schenck, "Structures narratives," 188.

<sup>38</sup> *Ibid.*, 187.

merchant absents himself from the house for business reasons (*h*: 1), he too is impatient that he and his friends should be served their meal as quickly as possible (*h*: 16–17), and he too urges his wife to return the borrowed tub when the neighbor's maidservant requests it (*h*: 36). That the world of work is treated cursorily in *h* conforms with that text's skeletal treatment throughout, and brevity does not imply that work is less valorized than in *A*. Comparison of *Le Cuvier* with some of the fables which share the same general theme suggests that Schenck exaggerates the actantial importance of the husband's devotion to work, and that she is mistaken in supposing that such valorization as she finds is a specifically fabliau phenomenon. The husband in *Puis* "fu a marchié alé,"<sup>39</sup> and the agricultural concerns of the husband in *Charma* occupy four lines of a very brief (67-line) text: "Li prodom une vigne aveit / Ou mout grant entente meteit: / Mout l'alout sovent regarder / Et prooignier et atorer."<sup>40</sup> Involvement with the world of work usefully motivates the husband's temporary absence from the house and helps set in motion the amorous intrigue conventional in this group of tales. It also contributes something to our understanding of the actant semanticized in the figure of the husband, but does not adequately define it. In other tales where actantial distribution is the same as in *Le Cuvier* the husband's absence may in contrast be motivated by religious concerns.<sup>41</sup> This actant would be better understood as the patriarchal attitude towards Christian marriage, whereby the husband is responsible for protecting the economic base of his marriage against his wife's prodigality, and its sexual integrity against her promiscuity. In whatever terms the actant investing the husband's role is defined, however, there is nothing to indicate that it should be differently interpreted in *A* and in *h*.

The actant associated with the husband opposes that associated with the wife, who is described as intelligent (*A*: 35), capable of experiencing emotions (*A*: 30, 42), and happy in her pursuit of an illicit sexual liaison with a clerk (*A*: 10–14). In contrast to her husband, whose preoccupation with work impoverishes his emotional life, the wife "est décrite en termes émotionnels et sensuels."<sup>42</sup> As in the case of the husband, the text of *h*

<sup>39</sup> Hilka and Söderhjelm, *Disciplina Clericalis III*, 36, line 2009 of *A*-text.

<sup>40</sup> *Ibid.*, 22, lines 1177–80 of *A*-text.

<sup>41</sup> This is the case, for example, in *L'Espée*: " 'D'un autre oï cunter / Ki en ureisuns vout aler' " (*ibid.*, 98, lines 1169–70 of *D*-text); *Lisette*: " 'Uns prudhum, ç'oï ja cunter, / Vuleit en ureisuns aler' " (*ibid.*, 101, lines 1327–28 of *D*-text); and *Le Velous*: " 'Uns hum,' dist il, 'out en curage / D'aler s'en en pelerinage; / Aler vout requerre saint Pere' " (*ibid.*, 98, lines 1123–25 of *D*-text).

<sup>42</sup> Schenck, "Structures narratives," 187.

roughly follows that of *A*. The sensual nature of the wife's relationship with her lover is certainly apparent from the brief description provided (*h*: 3–4), and she too is capable of experiencing emotions (*h*: 37). If detail is even more scant in the description of the wife than it was with regard to the husband, this is probably attributable to the fact that the case for her affective nature depends largely on just those passages of authorial comment on the situation and the emotional condition of the protagonists which *h* routinely excises. *A* contains numerous brief observations on the characters' emotional states, not only those of the wife and the lover, but in one telling (because hypothetical) instance those of the husband: "Et li borgois eüst corouz, / Se il seüst le clerc desouz" (*A*: 65–66). The claim that he is attributed no emotions beyond those associated with economic exchange is disingenuous. The wife's actions in *h* attest that she also is sensual, emotional, and intelligent, and if the text does not explicitly confirm these qualities through authorial comment, that is a reflection of the *remanieur's* style, not of any underlying differences in the logical-semantic structure of the two texts. The value system represented by the wife defines itself in opposition to that represented by the husband. If, as in Schenck's analysis, the husband epitomizes social duty and the work ethic, then the wife may epitomize friendship and leisure. If, as I would prefer to argue, the husband represents the values of a married bourgeois (economic security achieved through frugality; marital fidelity enforced by sequestration and surveillance; the authority of Christian patriarchy), then the wife represents the subversion of these ideals (prodigality, particularly expenditure on dress to attract beaux and food and drink to entertain those captivated by her charms; evasion of constraints on amorous adventures; rejection of the husband's authority as reinforced by social and religious dogma). In either case the wife in *h* is not significantly distinguishable from the wife in *A*.

Better grounds appear to exist for differentiating the two versions of *Le Cuvier* on the basis of the portraits of the lover. He is described in *A* as "un clerc de grant franchise" (*A*: 13) and on three occasions as "le mestre [de l'escole]" (*A*: 17, 110, 112). His discomfiture to discover that the upturned tub covering him has been pressed into service as a makeshift table is briefly described (*A*: 63–64). As a *clerc écolier* he enjoys membership of a privileged fabliau group which, according to Nykrog, "dans les intrigues érotiques . . . sont le seul groupe social qui ne souffre jamais de déboires: un clerc amant sort victorieux de toute rencontre."<sup>43</sup> By contrast, the wife's

<sup>43</sup> Nykrog, *Fabliaux*, 132.

lover in *h* is identified as a *chapeleïn* (*h*: 13) and referred to once as “sun lecheur” (*h*: 53). He belongs to the ranks of the *prêtres séculiers*, “les bêtes noires des fabliaux,” who in love-relationships “jouissent du douloureux privilège d’une issue régulièrement catastrophique.”<sup>44</sup> The portrait and good fortune of the clerk in *A* conform with conventional fabliau expectations. But the *chapeleïn* in *h* emerges from his amorous escapade as unscathed and as free from humiliation as his clerk counterpart in *A*. If the lover semanticizes the object actant on the axis of desire, such a striking deviation from normal fabliau practice would certainly imply a distinction of possible generic dimension between *A* and *h*. However, if the description of the lover and the account of his experiences in *h* dissociate that version of *Le Cuvier* from the fabliau genre, it does not suggest any rapprochement with fable, where the figure of the *prêtre séculier* is otherwise unknown. The possibility that *A* and *h* are essentially identical as *histoires* is restored if, in accordance with the dictates of the actantial model shown in the figure above, we relegate the lover to the *destinataire* actant. There, in accordance with conventional fable practice, his role is purely functional, providing the means by which the wife asserts her independence of action in defiance of her husband’s authority. In such circumstances the lover is a virtual cypher (Schenck does not distinguish his actantial role in *A* from that of the wife), his particular designation has little social or moral significance,<sup>45</sup> and his portrait is brief and bare of particularizing detail. Such is the case with characterization of the lover in *A* and *h*. It would be improper to attempt to draw generic distinctions between the two works on the basis of this figure.

We are left to conclude that *A* and *h* do indeed present us with two versions of the same *histoire*, and that any factor by which they are to be distinguished generically must be sought in some other facet of their

<sup>44</sup> Ibid., 133.

<sup>45</sup> The functionality of the lover’s role in fable literature is evident in his persistent designation as a *lecheor*. This is the case not only in *h* but in one of the fables of Marie de France, *Del vileïn ki vit sa femme od sun dru*, v. 11 (Marie de France, *Fables*, ed. and trans. Harriet Spiegel, Toronto Medieval Texts and Translations 5 [Toronto, 1987], 136), and in several of the tales from *DC* (references are to the line numbers of the *A*- and *D*-texts of *DC* in Hilka and Söderhjelm, *Disciplina Clericalis III*): *Charma* (*A*: 1182, 1199; *D*: 1087, 1094, 1114), *Le Velous* (*A*: 1279, 1286, 1300, 1314; *D*: 1139, 1162), and *L’Espée* (*A*: 1349; *D*: 1200). Alternative designations serve, like *clerc* in version *A* of *Le Cuvier*, as a shorthand indication that the otherwise characterless figure of the lover is young, eligible, and sexually attractive. Such is the case with *bachelier* (Marie de France, *Del vileïn ki vit sa femme od sun dru* [*Fables*, ed. Spiegel, 138], v. 25; *Lisette* [*D*: 1343, 1355, 1465]; *Puis* [*D*: 1530]); *vassal* (*Charma* [*A*: 1195]; *L’Espée* [*A*: 1362, *D*: 1190]); *damoiseil* (*Lisette* [*A*: 1613, 1695, 1777, 1902, 1946]; *Puis* [*A*: 2015]); and *juvencel* (*L’Espée* [*D*: 1173, 1177]; *Lisette* [*D*: 1386, 1399]; *Puis* [*D*: 1521]).

respective *récits*. What remains to be considered is the matter of style, and here too the two texts diverge widely. In general terms, and in conformity with its extreme brevity, *h* reflects a lack of literary pretension, and utilizes a functional "low" style to achieve effects whose chief merits are directness and economy. *A*, by contrast, appears to be the work of a self-conscious artist, eager to achieve a sense of amplitude and stylistic adornment. As opposed to *h*, which launches abruptly into its narrative, and concludes with an almost equally peremptory one-line speculation on the future fortunes of the adulterous couple, *A* frames its narrative between a brief promythium discussing the writer's role (*A*: 1–4) and an extended epimythium (*A*: 142–50) summarizing and commenting on the action. The *A*-author's handling of the intervening narrative shows him aiming at a number of different effects. He adds realistic touches to the story by specifying locations—the merchant husband returns from *Provins* (*A*: 22)—and by adding incidental detail, e.g., in his account of how the wife disposes of the bath water under the house (*A*: 36–39), or of how the husband finds a table cover hanging on a peg (*A*: 50–51). The wish to impart a heightened sense of realism may account for the *A*-author's version of the fire episode, since realism might be undermined in *h* by the neighbor's incredibly audacious act of destructiveness. The author of *A* supplies details about the characters of the husband (*A*: 5–9, 48–49) and the wife (*A*: 10–14, 35) which must be inferred from their actions in *h*. More importantly, he chronicles the psychological reactions of his characters to their experiences (*A*: 30, 42–43, 46–47, 60, 67–69, 108–12, 135–36, 140–43), and thus encourages his audience to identify with the characters and to share in their responses to events as they unfold.

If the *A*-author's changes to the diversionary stratagem of the fire were dictated by a desire for greater realism, his introduction of the episode where the husband improvises a buffet from the fugitive clerk's upturned tub seems intended to augment the element of dramatic irony in the story. This typically fabliau effect<sup>46</sup> preoccupies the author of *A* throughout, and he misses no opportunity to point out to his audience those occasions (*A*: 16–18, 25–26, 61–66, 74–75) when characters are unaware of the direction events are destined to take, or when one character is ignorant of a circumstance known to another character and to the audience. In addition to the promythium and epimythium, these intrusions attest the author's pervasive intervention in the conduct of his narrative, and a desire to guide

<sup>46</sup> A wide-ranging account of the pervasiveness of dramatic irony in the fabliaux is given in Germaine Dempster, *Dramatic Irony in Chaucer*, Stanford University Publications, University Series, Language and Literature, Vol. 4, no. 3 (Stanford, 1932; rpt. New York, 1959).

the reactions of an audience whose presence is imagined with such vividness that he addresses them directly on one occasion: "Oiez de qoi s'est porveüe" (*A*: 113). By contrast, *h* offers a consistently bare and objective narrative with little or no authorial comment on the characters, their reactions to events, or the comic peripeties generated in the development of the plot. Only in one instance does *h* profitably amplify the account as given in *A* when the neighbor's maid explains the urgent need to reclaim the tub by reporting that her own master has returned and wants to bathe. But the clarification of motive compensates little for the unnecessary duplication of the maid's visit to her neighbor's house, particularly since the repeated action is described in clumsily repetitive terms (*h*: 28–35, 40).

The lack of any overtly paraded sophistication in narrative technique is echoed in the *h*-author's versification, which exhibits qualities conventionally associated with elementary or careless composition. There are dialectal rhymes and numerous errors of declension, a number of lines are too long or too short, and in one instance a line appears in isolation with no complementary rhyme to complete the couplet (*h*: 13), but these defects are almost certainly attributable to errors of transmission rather than composition. By comparison with *A*, a distinct preference for minimal rhyme is apparent in *h*. The respective percentages are shown in the following chart:<sup>47</sup>

	assonance	rime faible	rime suffisante	rime riche	rime léonine
<i>A</i>	0	20	52	10.7	17.3
<i>h</i>	18.5	22	55.5	4	0

The most striking difference in versification between the two versions of *Le Cuvier* concerns the issue of enjambement and of transitions effected on the same rhyme. Throughout the 55 lines of *h* rhyme and grammar consistently work together to impart a general rigidity to the couplet form.<sup>48</sup> There are few instances of enjambement (*h*: 14–15) or of those transitions on the same rhyme (*h*: 11–12, 34–35) which Rychner credits with imparting ease and fluency to the sequence of verses.<sup>49</sup> Almost any passage of *A*,

<sup>47</sup> The terminology and the definitions used to establish comparative percentages are drawn from W. Theodor Elwert, *Traité de versification française*, Bibliothèque française et romane, ser. A, no. 8 (Paris, 1965).

<sup>48</sup> Rychner cites this feature as characteristic of those fabliau versions which lack literary sophistication by comparison with their analogues: "grammaire et rimes sont d'accord pour donner au couplet une relativement forte consistance" (Rychner, *Contribution* 1:118).

<sup>49</sup> *Ibid.* 1:32–37 passim.

where enjambement and transition on the same rhyme are relatively common, will serve to illustrate its superiority to *h*. Popular narrative verse is not the place to look for inspired poetry, but in *A* the dialogue is lively, the rhymes are achieved effortlessly, and the verse, while perfectly respecting the requirements of its couplet form, exhibits a fluidity and freedom from constraint quite lacking in the pedestrian verses of the Anglo-Norman version of *Le Cuvier*.

Is it possible to make a generic distinction between *A* and *h*—as fabliau and fable—on the basis of this qualitative difference in style? Doing so would certainly disturb the fabliau canon as currently constituted, because the features which distinguish *A* and *h* reappear in the relationship between numerous other fabliaux. The criteria used to assess the literary performance of the authors of *A* and *h* are drawn from Rychner's comparison of fabliau texts and applied by him specifically to the differences between the continental *La Grue* and the Anglo-Norman *Le Heron*, between the *K* and *B* versions of *Celui qui bouta la pierre*, and between the continental version commune of *Le Chevalier qui fist les cons parler* and the Anglo-Norman version *M*. There is nothing to support the idea that these texts divide themselves generically between fables and fabliaux. Rychner attributes the differences between them to one or the other of two processes, either, as in the case of *La Grue* and *Le Heron*, independent fashioning of a written text from a tale circulating as part of the oral literature of the period, or, as in the case of the different versions of *Celui qui bouta la pierre* and *Le Chevalier qui fist les cons parler*, debasement of an ancestral version of the fabliau in the course of transmission which may be to a greater or less degree memorial.<sup>50</sup> The two texts *A* and *h* of *Le Cuvier* do not precisely fit either category, but the relationship between them is explicable by reference to Rychner's criteria if modified slightly to accommodate the special case of two texts "indépendants aux rédactions apparentées" not known to the author of *Contributions à l'étude des fabliaux*.<sup>51</sup> Rather than independent reworkings of a tale circulating orally, *A* and *h* are more likely related as independent translations of a written Latin source. Its highly probable anteriority to *A* militates against *h* being a debased redaction of that text or of a version of *Le Cuvier* closely affiliated with it. Rychner's methodology does not allow for the possibility of a *remaniement* which ameliorates rather than degrades its exemplar,<sup>52</sup> but

<sup>50</sup> Ibid. 1:17–18, 37, 117–19.

<sup>51</sup> For Rychner's expression, see ibid. 1:11.

<sup>52</sup> See ibid. 1:91–92 for a discussion of the methodological problems attached to comparing texts where "tout remaniement se trahit à nos yeux par un défaut" (1:92).

the relationship between *A* and *h* furnishes evidence for the historical functioning of a process of positively imaginative *remaniement* which Rychner's unawareness of the existence of *h* encouraged him to deny. *A* may feasibly be accounted for as a redaction of the more expansive *h* version of *Le Cuvier* suggested by the fuller versions of its companion pieces in *D*. This redaction has been conducted in conformity with aesthetic principles of amplitude and adornment, and with an already identified emphasis on realism and dramatic irony. Heightened realism and a more sharply focused dramatic irony may well be factors which contribute to distinguishing fabliaux from fables, but they are maximally present in those fables which anticipate the fabliaux, and minimally present in those fabliaux which derive most immediately from fables, so that the presence of these features cannot be quantified so as to permit drawing generic distinctions between specific texts.

If the logical-semantic values of the narrative component of *récits A* and *h* as revealed by actantial analysis are the same, and if the evident differences in style are generically non-significant, then distinction of *A* as fabliau from *h* as fable must rest on the effect of extra-narrative elements on the expectations of the audience, on the way they may be predisposed or encouraged to respond to the tale. In the general corpus of fabliaux and fabliau-related fables these expectations may concern a wide and complex variety of issues. However, since all the narratives dealt with in this study belong to the group of tales with the general theme of "ruses d'une femme pour se tirer d'un mauvais pas," and conform to the same actantial model, factors affecting audience response may legitimately be restricted to the issue of sexual relationships, and specifically to the presence or absence of passages of antifeminist sentiment. In the case of a tale forming part of a larger compilation, such passages of guidance for audience response may appear in the frame, but together with tales occurring in isolation from any wider context they may also be reflected in the promythium or epimythium to the individual tale, or in the authorial intrusion of a passage of *sententia* in the course of the narrative.

For *A* and *h* this criterion appears to offer a clear and potentially definitive generic distinction. A didactic, monitory intent within the fictional context of a father's advice to his son is clearly signalled in *h* in an exchange immediately preceding *Charma*, the first of the series of five thematically linked tales within which the *h* version of *Le Cuvier* is integrated as a sixth constituent element:

"Beu fiz, siu liun u dragun,  
Urs, lepart, escorpiun:

La male femme ne suez mie  
 Pur losenge ke ele vus die!  
 Mes pri a Deu devotement  
 Le glorijs, omnipotent,  
 Ke il te defende de lur art,  
 E tu te gart de ta part."  
 E dit le fiz: "Mut me plereit  
 Oïr de femme ke que seit,  
 Kar cum plus le conustrei,  
 De taunt garder me puroi."<sup>53</sup>

By contrast, *A* exists independently of any frame and contains no passages of explicitly antifeminist sentiment.<sup>54</sup>

A criterion which appears clearcut in the case of *A* and *h* does not remain so, however, when extended to the relationship between other texts identified as fables or fabliaux, and cannot be used to differentiate one genre from the other in a systematic way. One of the "ruses d'une femme" tales in the *Fables* of Marie de France, *Del vilein ki vit sa femme od sun dru*, concludes with a brief moral tag, in conformity with the other fables in this collection and with a large number of fabliaux. By sheltering behind a proverb, Marie avoids any direct condemnation of her sex, but the view expressed is nevertheless familiarly antifeminist:

Pur ceo dit hum en repruver  
 Que femmes seivent enginner;  
 Les veziez e li nunverrable  
 Unt un art plus ke deable.<sup>55</sup>

<sup>53</sup> Hilka and Söderhjelm, *Disciplina Clericalis III*, 145. The scribe of *h* is following very closely the *D*-text of *DC* (ibid., 97, lines 1061–72) at this point. The antifeminist sentiments of the *A*-text of *DC* (ibid., 22, lines 1131–74) are more extensive and more caustic. The father hesitates to relate stories of women's trickery to his son in case, once recorded for the instruction and protection of men, they should fall into the wrong hands and become part of the repertoire of devices available to women to practice their deceptions. The son reassures his father that antifeminist instruction has a long and respected ancestry, going back to the proverbs of Solomon, and the father then agrees to relate the requested examples of feminine duplicity: "Beaus fiz, quant autre ne puet estre, / Un poi te dirai de lor estre, / Coment deceivent lor mariz / Et par lor faiz et par lor diz" (*A*-text of *DC*, ibid., lines 1171–74).

<sup>54</sup> It would be possible, of course, to read sentiments critical of the wife, and by implication of wives generally, in the account of her actions in the narrative. Her behavior when she feigns joy at her husband's return is clearly hypocritical, for example. But the hypocrisy is subsumed to the overall need for her to be quick-witted, resourceful, and single-minded in extricating herself from the potentially dangerous situation brought about by the indulgence of libidinous instincts which are not in themselves specifically condemned.

<sup>55</sup> Marie de France, *Fables*, ed. Spiegel, 138, lines 53–56.

Just how conventional these sentiments are may be judged from their cross-generic reappearance in the promythium of another in the same group of tales, a fabliau by Rutebeuf entitled *La Dame qui fist trois tours entor le moustier*:

Qui fame vorroit desovoir,  
 Je li fais bien apersovoir  
 Qu'avant decevroit l'anemi:  
 Au dyable a champ arami!  
 Cil qui fame wet justicier  
 Chacun jor la puet combrizier,  
 Et l'andemain rest toute saine  
 Por resouvoir autreteil painne.  
 Mais quant fame a fol debonaire  
 Et ele a riens de li afaire,  
 Ele li dist tant de bellues,  
 De truffes et de fanfollues,  
 Qu'ele li fait a force entendre  
 Que li cielz sera demain cendre:  
 Ainsi gaaigne la querele.<sup>56</sup>

Given the very close similarities between the two narratives, it is hard to imagine that the extra-narrative commentary does anything to differentiate these two works in such a way that it should seem appropriate to read one as a fable and the other as a fabliau.

Confusion between some fables and some fabliaux may be further illustrated with the special case of the anthology-fabliau *Les trois Dames qui troverent l'anel* mentioned earlier. Each of its two versions relates how three women compete for possession of a precious ring lost by its rightful owner in a locale where the women are accustomed to enjoy themselves at their leisure. The narrative core of each fabliau is composed of three separate accounts of how the wives execute the terms of the competition they devise to resolve ownership. Two tales, "The Husband made monk" and "The Cooked Fish," appear in both works (I§1 and II§2; I§2 and II§1 respectively), and two others, "The Substitute Bride" (I§3) and "Dame Avonde" (II§3) are unique to their individual compilations. All four tales fit the general theme of "ruses d'une femme pour se tirer d'un mauvais pas," although the bad situation is in all instances the illiberal effect of marriage in denying the wife access to her lover.

<sup>56</sup> Text in *NRCF* 5:337–57; 442–44. The passage quoted here (lines 1–15) is from the Critical Text, p. 353.

Some assistance in resolving the generic status of the individual tales in these fabliaux is provided by the materials we examined earlier when tracing the Latin sources of version *h* of *Le Cuvier*. The previously unknown source of I§3, "The Substitute Bride," appears as an addendum to "The Knight in exile" from Cambridge, University Library II.6.11:

Reconciliacione itaque facta novas adulterii machinas constituit illa. Cum enim ille ex illius consilio domum emisset a paupere domui sui socii contiguam, subterraneam perforat ille viam de domo in aliam habebatque liberum aditum, cum volebat. Cumque hoc illi non sufficeret, condicit ut in nupcias et in matrimonium convenirent, et articulatur in haec verba: Dominus meus socius tuus est. Dic ei quia de patria tua venit, quam in uxorem velis accipere, et mos vester est et lex sarracena, ut nonquis conjugem nisi ex dono viri legitime accipiat: vis eam de dono illius accipere, cum alium [in] hac patria non habeas amicum. Qui cum me viderit, putabit esse suam et dubitabit. Quodsi revertatur domum, ut videat an ego sim, ego praecuntabor (*sic*) eum in thalamo. Ubi cum invenerit me, arbitrabitur se esse deceptum et revertetur ad te. Et ego rursus praeveniam illum daborque tibi ab eo videntibus illis, qui astabunt. Et factum est ita.<sup>57</sup>

The French text of "The Substitute Bride" in *Les trois Dames qui troverent l'unel I* dispenses with the neighboring house, the underground tunnel, and the husband's return to be confronted by the wife he has just left in the person of his associate's prospective bride. The deception is achieved through a simpler expedient whereby the wife, having changed her clothes and disguised her appearance, outpaces her husband and her lover to the relative's house where she will substitute herself for the niece whom her husband supposes he is bestowing in marriage on his friend. Common to the two texts is the central motif of the husband tricked into giving his own wife in marriage to her lover before the priest and other witnesses, whose joint presence ensures that the gift once made cannot be rescinded.

A version of "The Substitute Bride" appears among ancillary materials to a classic fable collection, the *Disciplina Clericalis*.<sup>58</sup> A Latin prose ver-

<sup>57</sup> Hilka and Söderhjelm, *Disciplina Clericalis I*, 70–71.

<sup>58</sup> Another version appears uniquely as the story "Inclusa" told by the philosopher Berous in the French text of *The Seven Sages of Rome*. Extending to nearly 400 lines it is, by comparison with the skeletal account given in "The Substitute Bride," an even more elaborate version of the story than that offered in the Cambridge manuscript of *DC*. The treatment throughout is leisurely, the style courtly, and the narrative expanded with the addition of numerous romance motifs. The story begins, for example, with two lovers, living in widely separated lands and belonging to different cultures, who fall in love when each dreams of the other's existence. As the narrative progresses, it includes such romantic episodes as a chance encounter between the lovers when the knight happens on the castle where the lady is enclosed in a tower behind ten locked doors, the construction of a passageway to the lady's chamber from the annex, built to his specifications, where the knight has his lodging, and the murder of the artisan responsible for

sion of "The Husband made monk" also appears in a similar context, among the fables incorporated into the *Sermones Vulgares* of Jacques de Vitry (No. 231). Since these tales, with their fable affiliations, appear together with other essentially similar tales in a thematically organized compilation, they appear to satisfy all the conditions requisite to designating them fables in their own right. Their status as fables is further confirmed in the case of version I by a passage of authorial intrusion which articulates the monitory implications of the general theme of the constituent narratives (in a manner consistent with the father's injunctions in *DC*, or Marie's summary remarks to similar tales in the *Fables*):

Maint preudomme a esté trahi  
Par fame et par sa puterie.

. . . . .  
Por ce chasti je toute gent  
Qui cest fablel oient conter  
Qu'il ne se doivent pas fier  
En lor fames n'en lor mesnies,  
Se il nes ont ainz essaies  
Que plaines soient de vertuz.  
Mains hom a esté deceüz  
Par fame et par lor trahison!<sup>59</sup>

Although all of the formal features of the narratives in version I of *Les trois Dames qui troverent l'anel* identify them as fables, or at least make them indistinguishable from other works whose designation as fables would be less controversial, it is difficult to reconcile such a status with the author's repeated reference to his total compilation as a *fabliau* (version I, lines 1 and 99). Given the absolute validity of the requirement of narrative form for *fabliau* status, this surely implies that he would similarly have designated the work's individual narrative constituents.

It might nevertheless be possible to argue, with regard to version I of *Les trois Dames qui troverent l'anel*, that the anthology as a whole is a *fabliau*, while the constituent narratives are indeed fables. Pursuing this line of argument, however, problematizes the status of the tales in version II, which are in two instances indistinguishable in respect of both plot and

constructing the passageway in order to protect the secrecy of the lover's access to his mistress. Its relationship to the two tales discussed above is not easy to determine, but it would appear to be an amplified version of the narrative given in *DC* which the author of "The Substitute Bride" condensed. See *Le Roman des Sept Sages*, ed. Jean Misrahi (Paris, 1933), 113–22, lines 4225–4598.

<sup>59</sup> *Les trois Dames qui troverent l'anel I* (NRCF 2:231, lines 94–105).

style from their counterparts in version I. While not contextually identifying itself as a fabliau, version II drops the passage of antifeminist satire found in version I, and considerably increases the ludic element in the competition which constitutes the frame in both versions. If the generic nature of the tale is controlled by its context, and by the influence of that context on creating expectations and conditioning the responses of the audience, then the fables in version II are closer to fabliaux than the fables in version I.

What has to be acknowledged finally is that the historical process whereby fabliaux evolve from fables is a process of infinite gradation. No single, universal criterion works to distinguish fables from fabliaux unequivocally. There survives a group of tales, some but not all of them mentioned in this study, which although generally designated fables are in fact indistinguishable from some fabliaux. This group would include five tales appearing in the French verse translations *A* and *D* of *DC*, and the *h* version of *Le Cuvier* found in the Anglo-Norman redaction of 'B' in Harley 527.<sup>60</sup> Conversely, there survives a group of tales, including, in addition to Rutebeuf's *La Dame qui fist trois tours entor le moustier* already discussed, such works as Jean Bodel's *Le Vilain de Bailluel*<sup>61</sup> and the anonymous *La Femme qui cunquie son baron*<sup>62</sup> which although generally designated fabliaux are indistinguishable from some fables. To this group would belong version *A* of *Le Cuvier*. The text of version *h* of *Le Cuvier* was presumably left out of *NRCP* because the editors of *A* were unaware of the existence of *h*. To exclude the thirteenth-century Anglo-Norman version of *Le Cuvier* on generic grounds, by arguing that it is a fable and not a fabliau, would be theoretically unjustifiable.

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<sup>60</sup> Restriction to French language and octosyllabic verse form, criteria which govern qualification as a fabliau, are not pertinent for fables, but enough of the latter have been composed in French or translated into French that generic distinction on the basis of language would still leave a substantial corpus of tales to be accounted for. Translation from Latin into French simply constitutes one early step along the path of fabliau evolution which we have been discussing.

<sup>61</sup> Text in *NRCP* 5:223-49; 418-24.

<sup>62</sup> Text in Bédier, *Les Fabliaux*, 344-46.

## THE SOUTH ITALIAN COLLECTION IN FIVE BOOKS AND ITS DERIVATIVES: MAASTRICHT EXCERPTA

*Roger E. Reynolds*

WHEN E. A. Lowe undertook his research for his classic *The Beneventan Script*,<sup>1</sup> his hunt for manuscripts written in the distinctive hand of south Italy and Dalmatia rarely lead him into archives that may have had examples of his script. Rather, he concentrated with good reason on libraries with their collections of manuscripts containing non-diplomatic materials. Lowe explored archives only in a few cases, such as Dalmatia, yet as the search for further items written in Beneventan continues, it has been discovered that the archive, ecclesiastical or secular, is one of the most fruitful venues.<sup>2</sup> Codices written in this script were largely

<sup>1</sup> E. A. Lowe, *The Beneventan Script: A History of the South Italian Minuscule* (Oxford, 1914).

<sup>2</sup> The following archives are noted in Lowe, *The Beneventan Script* and *The Beneventan Script: A History of the South Italian Minuscule*, Second edition prepared and enlarged by Virginia Brown, vol. 2: *Hand List of Beneventan MSS.*, Sussidi eruditi 34 (Rome, 1980); E. A. Lowe, "A New List of Beneventan Manuscripts," in *Collectanea vaticana in honorem Anselmi M. Card. Albareda a Bibliotheca Apostolica edita*, 2 vols., Studi e testi 219–20 (Vatican City, 1962), 2:211–44; Virginia Brown, "A Second New List of Beneventan Manuscripts (I)," *Mediaeval Studies* 40 (1978): 239–89, "A Second New List of Beneventan Manuscripts (II)," *Mediaeval Studies* 50 (1988): 584–625, and "A Second New List of Beneventan Manuscripts (III)," *Mediaeval Studies* 56 (1994): 299–350. Some depositories called archives are also libraries.

Altamura, Archivio Biblioteca Museo Civico, Archivio Capitolare; Ascoli Piceno, Archivio di Stato, Fondo notarile Ascoli Piceno; Augsburg, Stadtarchiv; Avellino, Archivio di Stato; Aversa, Archivio Capitolare della Chiesa Cattedrale S. Paolo, Archivio Storico Diocesano; Avezzano, Archivio Diocesano dei Marsi; Bamberg, Staatsarchiv; Barcelona, Archivo de la Corona de Aragon; Bari, Archivio del Duomo, Archivio di S. Nicola, Archivio di Stato; Benevento, Archivio di Stato, Commissione Diocesana per i Beni Culturali; Bisceglie, Archivio Capitolare del Duomo, Archivio del Duomo, Archivio parrocchiale della Collegiata dei SS. Matteo e Niccolò, Archivio Storico Diocesano; Bologna, Archivio di Stato; Caiazzo, Archivio Capitolare; Camerino, Archivio Arcivescovile, Archivio di Stato; Cava, Archivio della Badia della Santissima Trinità; Cologne, Historisches Archiv; Corfinio, Archivio Capitolare della Cattedrale S. Pelino; Corinaldo, Archivio Storico Comunale; Cremona, Archivio di Stato; Ferentino, Archivio Storico e Notarile; Foggia, Archivio di Stato; Foligno, Archivio di Stato; Frosinone, Archivio di Stato; Gaeta, Archivio del Capitolo Cattedrale, Archivio del Duomo; Gerona, Arxiu de la Catedral; Giovinazzo, Archivio Capitolare; Goslar, Stadtarchiv; Koblenz, Landeshauptarchiv; Latina, Archivio di Stato; Lucca, Archivio di Stato; Lucerne, Stiftsarchiv S. Leodegar; Macerata, Archivio di Stato; Matera, Archivio di Stato; Mirabella Eclano, Archivio della Chiesa Collegiata; Monopoli, Archivio Unico Diocesano; Montecassino, Archivio della Badia; Naples, Archivio di

liturgical and hence usually had heavy wear. As liturgical rites copied in Beneventan became obsolete or outmoded, the folios of the manuscripts in which they were written might be palimpsested or reused for other purposes.<sup>3</sup> When "retired," the manuscripts were often dismembered and the membra disiecta used as binding covers for archival material or for paste-downs and flyleaves in other manuscripts or printed books. To a lesser extent, this was also the case with legal manuscripts, be they of secular or ecclesiastical law.<sup>4</sup> The manuscript fragments that are the subject of this note once belonged to a book of canon law related to the eleventh-century *Collection in Five Books*.

The excerpta are written on two parchment bifolia now found in the Rijksarchief Limburg of Maastricht in the Netherlands.<sup>5</sup> The blue-grey folder in which they are found bears the call number "R.A. Limburg 18.A. Collectie Handschriften Cat. nr. 196." The old manuscript number was 167.I.27. The recent catalogue of the 543 manuscripts and fragments in the Rijksarchief edited by G. J. M. Jägers describes the bifolia as follows: "[Fragment uit een verhandeling over kerkelijk recht.] Handschrift; perkament; ongedateerd. 8<sup>o</sup> (onregelmatig van formaat); 1 katern (membrum disiectum), ongepagineerd (8 p.), geglosseerd, initialen (in rood en groen), in omslag. / Latijnse tekst. Delen van de tekst in rood."<sup>6</sup> The two bifolia are of medium-quality parchment of a yellow-tan colour. As bifolia they

Stato, Archivio Storico Diocesano; Northampton, Northamptonshire Record Office; Orvieto, Archivio di Stato; Parma, Archivio di Stato; Peterlingen, Stadtarchiv; Ravenna, Archivio Storico Arcivescovile; Rieti, Archivio Capitolare; Rome, Archivio di Stato; St. Petersburg, Arkhiv ... Instituta Istorii Akademii; Sala Consilina, Archivio Parrocchiale di S. Pietro Apostolo; Salerno, Archivio di Stato; San Giovanni in Fiore, Archivio parrocchiale della Chiesa Matrice di San Giovanni in Fiore; Split, Arheološki Muzej, Nadbiskupski Arhiv, Riznica Katedrala, Kaptolski Arhiv; Teramo, Archivio della Curia Vescovile; Trani, Archivio Capitolare; Trogir, Kaptolski Arhiv; Troia, Archivio del Duomo; Udine, Archivio di Stato; Vatican City, Archivio Segreto Vaticano; Venice, Archivio di Stato; Zadar, Archives of the Convent of St. Mary, Archiepiscopal Archives, Historijski Arhiv; Zagreb, Arhiv Hrvatske, Arhiv Jugoslavenske Akademije; Zürich, Staatsarchiv.

<sup>3</sup> A classic example of this are the Boccaccio autographs, on which see Virginia Brown, "Boccaccio in Naples: The Beneventan Liturgical Palimpsest of the Laurentian Autographs (MSS. 29.8 and 33.31)," *Italia medioevale e umanistica* 34 (1991): 41–126.

<sup>4</sup> See, e.g., Toni Schmid, "Canon Law in Manuscripts from Medieval Sweden," *Traditio* 7 (1949–51): 444–49; and *Helgerånet: Från Mässböcker till Munkepärmor*, ed. Kerstin Abukhanfusa, Jan Brunius, and Solbritt Benneth (Stockholm, 1993), 72, 79–80, 164–65, 179.

<sup>5</sup> I am grateful to Dr. Rudolf Pokorný for originally drawing my attention to these folios. Research has been supported by a grant from the Social Sciences and Humanities Research Council of Canada for the project *Monumenta Liturgica Beneventana*.

<sup>6</sup> *Catalogus van de handschriftencollectie van het Rijksarchief in Limburg*, ed. G. J. M. Jägers (Maastricht, 1991), 70–71.

are unnumbered and bear no foliation or pagination; hence for ease of description they can be called here Bifolium A and Bifolium B.

The measurements of Bifolium A are 280 mm. (wide)  $\times$  206 mm. (high), the extending tabs at the top reaching to 223 mm. Bifolium B measures 270  $\times$  201 mm., the extending tabs at the top reaching to 214 mm. No pricking is visible, but on Bifolium A marginal rules and lines have been made by drypoint from hair to flesh side. The vertical rulings for margins, from left to right across Bifolium A, fols. 2v–1r, are (first rule cropped) 4, 101, 105, 136, 141, 237, and 243 mm. The three middle and lowest lines continue through the center of the bifolium. On each folio there are twenty-six lines of text, 6/7 mm. apart, in one column. The writing space is approximately 170  $\times$  96 mm.

Originally the folding of Bifolium A was the reverse of its current folding, as can be seen in the continuity of text from the present folio 2v to 1r. Bifolium B is still folded in its original direction, although there are two center folds, one original, the other more recent. Still visible on both bifolia are the original four binding holes whose measurements from the top of the bifolia are 26/29 mm., 83/85 mm., 133/134 mm., and 179/180 mm.

After the manuscript from which the bifolia were taken was dismembered, Bifolium A appears to have been folded inside out. Bifolium B was placed within Bifolium A and the two stitched together, as can be seen when three sets of stitching holes appearing on both sides of the folded bifolia are placed together and carefully examined. It was probably at the time of stitching that two tabs were made at the tops of each folio and were reinforced with bits of parchment. Presumably all this had to do with creating a "binder" for other pieces of parchment or paper, be they diplomatic or otherwise. The folder must have appeared somewhat ragged inasmuch as the bifolia were carelessly folded and stitched together.

By the later Middle Ages the binder with or without its contents seems to have reached Limburg, because in the outer margins of Bifolium A and inner margins of Bifolium B there are cursive texts in Dutch which date probably to the fifteenth or sixteenth century.<sup>7</sup> In the latter one can make out the words "kloster," "Jan van Mechelen," "Smeets" (?), "Thomas," "Van Soo" (?), and twice the year "anno 98," and in the former the name of "Jan van Gugning/Gruying/Gruyning" (?) and his wife. Also on the former there is a little prayer written "A mon premier commencement, soit

<sup>7</sup> Dr. J. Hermans of the Rijksuniversiteit Groningen has kindly dated the writing to the fifteenth century.

Dieu le père omnipotents.”<sup>8</sup>

Later the two bifolia were unstitched and took on an afterlife as pastedowns for a book, which the modern catalogue of the Rijksarchief does not identify. Visible on both bifolia are stains left by the turned-in covers which once held them fast to the boards of the volume.

The hand of the Latin text is of a distinctive central Italian type, the *romanesca*, of the later eleventh century.<sup>9</sup> Many other manuscripts containing collections deriving from the *Collection in Five Books* are also in *romanesca*.<sup>10</sup> In our fragments the text-ink is brown; minims measure 3 mm., descenders 4.5 mm., and ascenders 4/4.5 mm. Rubrics are in reddish-orange; larger initials, which are in the left-hand margin, are also in reddish-orange; and small rubricated initials are found throughout the text. There is one incipit of a canon on Bifolium B, fol. 2r, in large decorative letters beginning with a large C with acanthus-leaf motifs.

As with the manuscripts of the *Collection in Five Books* and many of its derivative collections, words throughout the text are glossed, usually with single simple synonyms. These glosses are in a small hand contemporary with the main text. In some instances there is no word separation, and a later hand has made light slash marks to assist the reader or another copyist.

As to the text of the canons themselves, they are generally arranged in blocks taken in order from the *Collection in Five Books*, books 1 and 2 (Bifolium A, fols. 2r–2v–1r–1v) and, after a lacuna, book 4 (Bifolium B, fols. 1r–1v and, after another lacuna, 2r–2v). The major topics dealt with are ecclesiastical judges and judgements, monks, infanticide, and swearing and oaths. There is one canon on monks that is not drawn from the *Collection in Five Books* (at least in its known witnesses). This canon, <XVI> *Placuit communi*, forbidding certain duties to monks, is also found in the *Collectio canonum* of Anselm of Lucca and in Gratian’s *Decretum*, and it is attributed to Pope Eugenius in these collections.<sup>11</sup> Strangely, in the Maas-

<sup>8</sup> Dr. Rob Meens of the Universiteit Utrecht has suggested that words in the marginal entries such as “coram” and “item noch” might point to someone writing on behalf of some judicial procedure, like a local court of *scabini*.

<sup>9</sup> On this script, see Paola Supino Martini, *Roma e l’area grafica romanesca (secoli x–xii)*, Biblioteca di Scrittura e civiltà 1 (Alessandria, 1987).

<sup>10</sup> On these, see Roger E. Reynolds, “The South-Italian Canon Law *Collection in Five Books* and Its Derivatives: New Evidence on Its Origins, Diffusion, and Use,” *Mediaeval Studies* 52 (1990): 278–95.

<sup>11</sup> Gratian, *Decretum* C.16 q.1 c.8. I am grateful to Professor Robert Somerville for drawing this parallel to my attention. He notes that Friedberg in his edition of the *Decretum* used a conglomerate form of the collection of Anselm of Lucca that does not give an indication of the eleventh- and twelfth-century forms of Anselm. In any event, the text can be found in the A1 and C forms of Anselm’s collection: A1 5.68 and C 5.65. On the various recensions of Anselm’s col-

tricht excerpta it is attributed to both Eugenius and *Karolus imperator*. This is notable for two reasons: (1) Charlemagne had died before Eugenius became pope, and (2) in the *Collection in Five Books* Charlemagne is referred to not as *imperator* but as *rex*. It is possible that the canon came from Carolingian times inasmuch as some of its terminology, such as “pro lucro terreno,” has a Caroline ring to it,<sup>12</sup> and it fits into the Carolingian efforts to assert the distinctive character of monks. On the other hand, the canon includes the term *ecclesia secularis*, which may point to a later date, and the canon could be an eleventh-century forgery fitting into the efforts of conservatives to keep monks in their monasteries.<sup>13</sup> As to the reasons for the unusual attribution, one can only speculate. If the canon did originate in Carolingian times, it is possible that Charlemagne in his years as emperor and Pope Eugenius later both legislated on this matter. In this respect it is telling that in Carolingian times both secular and clerical rulers legislated on ecclesiastical matters and that there were attempts, such as those in the Pseudo-Isidorian Benedictus Levita, to demonstrate the coincidence of secular and canon law. If the Maastricht canon is an eleventh-century forgery, the presence of Charlemagne’s name and his position as emperor, not king, is more difficult to explain. It may be that the attribution in this canon arose from textual confusion in a source like the *Collection in Five Books*. In the collection and its relatives, such as the *Collectio Angelica*, there is occasional confusion in the attribution of canons to secular rulers such as Charlemagne or Henry II.<sup>14</sup> Moreover, there are in the *Collection in Five Books* separate canons attributed to both Charlemagne and Eugenius, one of the latter regarding monks.<sup>15</sup> As to why both Charlemagne and Eugenius are cited in the Maastricht text, while only the latter is cited in Anselm of Lucca’s collection, is also a matter for speculation. It may be that the compiler of the Maastricht text took it from Anselm or one of his sources and added the name of Charlemagne. On the other hand, it may have been Anselm or one of his sources who was borrowing from a text like that of Maastricht and recognizing that Charlemagne and Eugenius did not rule at the same time simply omitted the former’s name. In any event, the origins of the canon and its attribution are unclear.

lection, see Peter Landau, “Die Rezension C der Sammlung des Anselm von Lucca,” *Bulletin of Medieval Canon Law*, n.s., 16 (1986): 17–54.

<sup>12</sup> Professor Hubert Mordek has kindly made this observation to me.

<sup>13</sup> Professor Giles Constable has kindly pointed this out to me.

<sup>14</sup> See Reynolds, “South-Italian Canon Law *Collection in Five Books*,” 289.

<sup>15</sup> See *Collectio canonum in v libris (lib. i–iii)*, ed. M. Fornasari, CCCM 6 (Turnhout, 1970), 260.

If the texts in the Maastricht excerpta drawn from the *Collection in Five Books* are compared with the manuscripts of that collection, it is clear that they are closest to those in the romanesca manuscript from Narni, Vatican City, Biblioteca Apostolica Vaticana Vat. lat. 1339. Because of variants in both texts and glosses the Maastricht texts cannot be based on a manuscript such as Rome, Biblioteca Vallicelliana B 11 from San Eutizio presso Norcia, although in canon <XI> both the Maastricht and Vallicelliana texts are alike in omitting the words "a clero" from the end of the canon.

In the Maastricht texts there are several deviations from similar texts in the *Collection in Five Books*. First, the number of glosses on words is reduced in the Maastricht excerpta, usually to one. Second, in some instances, notably canons <XI>, <XII>, and <XIII>, a reference to the original number of the canon is given. Possibly the compiler of the Maastricht excerpta added these to his model or he was using a source other than the *Collection in Five Books*.

Following is an incipit-explicit edition of the Maastricht excerpta. In several instances, where the texts are short, the complete text has been given. Italicized words and letters represent those rubricized in the manuscript. Letters and words in boldface are decorated in the manuscript in some way. Within braces { } are the glosses over the prior word. Numbers in pointed brackets < > have been added to each canon for ease of citation. Words or letters supplied in < > are illegible or are missing in the manuscript. The orthography of the manuscript has been maintained. Where a canon appears in Fornasari's partial edition of the *Collection in Five Books*,<sup>16</sup> the canon number (preceded by 5L) and page from that edition (= F) are cited. His numbers, however, are found in no manuscript of the collection, and so the page number in the best manuscript of the collection, Montecassino, Archivio della Badia 125 (= MC), is also given. Where a canon is drawn from the unedited book 4 of the *Collection in Five Books*, the number and page of the canon in MC is given.

// bifol. A, fol. 2r //

<I> <occidunt . . . malum exemplum> praebendo; an frustra dictum est . . . in ipso est eum a quo attenditur {videtur} occidit.

5L 1.192; F, p. 121; MC, p. 50.

<sup>16</sup> See preceding note.

<II> *De his qui praepositorum culpas in publico produnt.*

*Sententia* dampnantur Cham filii Noe qui suorum praepositorum . . . facta non diligant, nec nudent sed tantum operiant.

5L 1.205; F, p. 126; MC, pp. 52–53.

<III> *Qualiter praepositis oboedire conveni<t>.*

*Predicator* omnipotentis domini Apostolus dicit: Obedite praepositis vestris . . . non gementes. Hoc enim non expedit {non convenit} vobis.

5L 1.207; F, pp. 126–27; MC, p. 53.

<IV> *Itemque.*

Rogamus vos fratres // bifol. A, fol. 2v // ut noveritis eos qui laborant inter vos . . . horum intuentes exitum {initium et finis} conversationis.

5L 1.207; F, p. 127; MC, p. 53.

<V> *De iudicibus ecclesiae quales fieri debent.*

*Paterius.*

Non oportet iudices ecclesiae habere timorem humanum . . . cautelitatem {studium} secularem habere, sed exempla divina.

5L 1.223.1; F, p. 137; MC, pp. 57–58.

<VI> *Ihesus filius Syrach.*

Quia non oportet servum dei cautum esse. . . . Quia in quocumque iudicio iudicaveritis, iudicabitur de vobis.

5L 1.223.2; F, pp. 137–38; MC, p. 58.

<VII> *De iudicio clericorum ut non sūt apud iniquos.* // bifol. A, fol. 1r //

*Paulus.*

Auferte malu<m> ex vobis ipsis. Audet aliquis vestrum negotium habens iudicari . . . An nescitis quoniam angelos {episcopos. presbiteros} iudicabimus? Numquid non magis quam vos?

5L 1.224.1; F, p. 138; MC, p. 58.

<VIII> *Paterius.*

Indigni sunt huius{isti}modi qui etiam de minimis iudicent. . . . contemptibiles

{reprehensibiles} sunt in ecclesia illos constituite ad iudicandum.

5L 1.224.2; F, p. 138; MC, p. 58.

<IX> *Synodus Cartaginenses.*

Clericus qui causam suam sive iustam sive iniustam ad iudicium . . . illud est, dirimetur {abscidetur} et omnimodo oboediant statutis {legibus} eorum.

5L 1.224.3; F, p. 138; MC, p. 58.

<X> *Paterius.*

Omnis mundialis {secularis} etiam si sapiens sit, non iudicet iudicia ecclesiae.

5L 1.224.4; F, p. 138; MC, p. 58.

<XI> *Clericum fidemiussorem esse non oportet.*

*In canonibus apostolorum. Titulo xx.*

Clericus fideiussionibus inserviens abiciatur.

5L 1.230; F, p. 140; MC, p. 67.

<XII> *Ex decretis Celestini pp. Titulo vicesimo.*

Nulli sacerdotum liceat suos canones ignorare {nescire} nec quicquam {aliquid} . . . aliquorum libitu {voluntate} licentia populis permissa {concessa} frangatur?

5L 2.1; F, p. 179; MC, p. 67.

<XIII> *De synodis quae ab episcopis suis debentur temporibus in provincia celebrari.*

*Ex concilio Anthioceno. Cap. xx.*

// bifol. A, fol. 1v //

*Propter utilitates ecclesiasticas et absolutiones earum rerum {causarum} . . . praeter eos quibus metropolitana iura {potestates} videntur esse commissa.*

5L 2.5; F, pp. 181–82; MC, p. 68.

<XIV> *De eo quod monachus abbatem pessimum deserere debet.*

*Hieronimus.*

Lupus vitandus pastor bonus adeundus. Spelunca latronis deserenda ovile ovium petendum.

5L 2.114.1; F, p. 258; MC, p. 103.

<XV> *Augustinus.*

Fugiunt oves vocem pastoris quem non cognoscunt et deserta petunt. Ita mali principes [sic] ovilia vitanda sunt et deserta vita petenda.

5L 2.114.2; F, p. 258; MC, p. 103.

<XVI> *Ex decretis Eugenii pp. et Karoli imperatoris.*

Placuit communi nostro consilio ut nullus monachorum pro lucro terreno de monasterio suo exire nefandissimo ausu praesumat . . . neque qualibetcumque [sic] negotiis sese implicare sit suo clauastro contemptus [sic]. Quia <. . . .>

Anselm of Lucca, *Collectio canonum*, Version A1, 5.68, Version C, 5.65 (cf. Gratian, *Decretum* C.16 q.1 c.8).

// bifol. B, fol. 1r //

<XVII> <. . . qua mu. . . .> consuetudinem sive incuna sive in alio loco ubi . . . si non baptizatus .i. an. pen. Si vero <bap>tizatus .ii<sup>as</sup>. qua dicitur.

5L 4.84.3; MC, p. 220.

<XVIII> *Iudicium Comeani.*

Si mulier fidelis parit infantem et si possit non nu<trit> eum sed proicit. . . . Sed tamen propter purificandam animam s<uam> iudicium sacerdotis peniteat.

5L 4.85.1; MC, p. 220.

<XIX> *Iudicium Comm<eani>.*

Siqua mulier ebria aut per aliquam crapula<m> {superfluitat<em>} infantem suum oppresserit. . . . Si vero per aliquam ebitudin<em> {debilitate<m>} mentis aliquantulum venie praebeatur.

5L 4.85.2; MC, p. 220.

<XX> *De mu<lie>ribus conceptos suos natos necantibus et de consent<ientibus eis>*

*Hieronimus.*

Quae mulier hanc detestatione {contradictione} . . . et parricida in filium suum. <I>nde definimus ei // bifol. B, fol. 1v // <ut usque in finem vi>tac <su>ae peniteat.

5L 4.85.3; MC, p. 220.

<XXI> *Augustinus.*

Quae mulier aut laborat {operatur} ut non concipiat aut partum . . . tantorum homicidiorum ream esse cognoverit.

5L 4.85.3; MC, pp. 220–21.

<XXII> *Concilio Ancyrano.*

<Si qu>am mulier fornicaverit <et in>fantem qui exinde fuerit natus occiderit . . . conscias {consentientes} sceſcrum ipsarum .x. annis <ager>e penitentiam iudicamus.

5L 4.86.1; MC, p. 221.

<XXIII> *In eodem concilio.*

<Si quis c>onceptum mulieris deceperit {destruxerit} si ante .xl<sup>a</sup>. dies .xl<sup>a</sup>. <die>s penit. Si autem post .xl. dies ut homicida pen.

5L 4.87.1; MC, p. 221.

<XXIV> *Iudicium canonicum.*

<Pater> aut mater si sciens uo<lunt>arie necat filium suum ante baptismum . . . per capta {perdita} mente inscius {nescius} et <...>

5L 4.88; MC, p. 221.

// bifol. B, fol. 2r //

<XXV> <...> salutem et brevietur penitentia eius. Si autem non potuerit ut homicida peniteat. Si potuerit et noluerit ut impius iudicetur.

5L 4.136; MC, pp. 235–36.

<XXVI> *De coniuratione vel conspiracyone.*

*Ex concilio Calcedonensi.*

**CONIURATIONIS** {coadunationis} **VEL CONSPIRATIONIS** crimen ab exteris {extraneis} . . . episcopis aut clericis a gradu proprio penitus {per omnia} abiciantur.

5L 4.137.1; MC, p. 236.

<XXVII> *De clericis per creaturam iurantibus.*

*Concilio Cartagensi.*

Clericum per creaturam {celum et terram} iurantem accerrime {durissime} ob-

iurgandum {increpandum} si persisterit {perseveraverit} in vitio excommunicandum.

5L 4.137.2; MC, p. 236.

<XXVIII> *De tria iuramenta que solvenda sunt.*

*Hieronimus.*

Tria iuramenta solvenda {destruenda} sunt. Primo cum quis male facere iurat. . . . Omne nodum {ligatura} iniquitatis dissolve.

5L 4.139.1; MC, p. 236.

<XXIX> Item.

Iuramentum perversum retro . . . non putans esse peccatum.

5L 4.139.2; MC, p. 236.

<XXX> *ORIGEN.*

Alii frustra {invanum} iurant nec se ipsos adiuvant nec alios ut melius solvere {rumpere} videatur quam implere.

5L 4.139.3; MC, p. 236.

<XXXI> *Synodus defini-* // bifol. B, fol. 2v // *tio.*

Intanta [*sic*] {inordinata} laudabiliter solvenda nec praevaricatio sed est temeritatis {perversitatis} emendatio.

5L 4.139.4; MC, p. 236.

<XXXII> *In libro <Regum>.*

Saul iuravit Jonathan occidere et non occisus est nec in hoc iuramentum culpatus . . . irrita {vana} erunt nec tenebitur obnoxia {culpabile}.

5L, 4.139.5; MC, p. 236.

<XXXII> *Synodus hibernensis.*

Iuramentum filii et filiae nescientes [*sic*] patre, iuramentum monachi nesciente abbate, iuramentum servi non permittente domino irrita erunt.

5L 4.139.6; MC, p. 236.

<XXXIV> *Hisidorus.*

In malis autem promissis resinde {abside} fidem in turpi uoto muta. . . . Bonum

igitur est malum quod pellit {expellit} pessimum.

5L 4.139.7; MC, p. 236.

<XXXIII> GREGORIUS.

Quod latenter {absconse} et per vim {virtute} et illicite {iniuste} introductum est. . . . Scriptum est enim omnia bona erunt in comparatione {assimilatione} peiorum.

5L 4.139.8; MC, p. 236

In recent studies it has been shown that the *Collection in Five Books*, which survives in only three manuscripts and perhaps a fragmentary folio, had become very popular in southern and central Italy in the late eleventh and early twelfth centuries and gave rise to many abridgements and derivative collections—over twenty thus far identified.<sup>17</sup> Almost all of these derivatives are found in libraries in central and southern Italy. The only exceptions thus far have been those in Spain: the *Collectio Toletana*, found in a central Italian manuscript taken to Toledo by Cardinal Zelada; the collection in Madrid, Biblioteca Nacional 373, in Beneventan script; and the excerpta in El Escorial, Real Biblioteca de San Lorenzo Z III 19, also in Beneventan and written possibly at Montecassino. The Maastricht fragments copied in central Italy now show that a derivative collection, either in whole or in part, also travelled to the Low Countries.

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<sup>17</sup> See Reynolds, "South-Italian Canon Law *Collection in Five Books*," 278–95.

## GRATIAN'S *DECRETUM* AND THE *CODE* OF JUSTINIAN IN BENEVENTAN SCRIPT

*Roger E. Reynolds*

A recently published article, entitled "Canonistica Beneventana," was devoted to studying the appearance of canon law collections in Beneventan script.<sup>1</sup> The number of these collections represented and the volume of manuscripts in Beneventan is surprisingly large. The ages of the manuscripts range from the late eighth century to the late twelfth or early thirteenth centuries. The earliest collection represented is a version of the ancient fifth- or sixth-century *Collectio Dionysiana* and the latest is an excerpt from the late eleventh-century *Tripartita* of Ivo of Chartres. Between these chronological limits, virtually all of the major early medieval canon law collections are represented in Beneventan script: the *Concordia Cresconii*, *Collectio vetus gallica*, *Collectio canonum hibernensis*, *Collectio Dionysio-Hadriana*, *Collectio Dacheriana*, *Pseudo-Isidorian Decretales*, Burchard's *Decretum*, the *Collection in Five Books*, and the *Collection in Seventy-Four Titles*. The only major collections conspicuous for their absence are the *Collectio canonum hispana*, Regino's *Libri duo de synodalibus*, the *Collectio canonum* of Anselm of Lucca, and Ivo's other collections. The origins of the collections themselves, from Germany and France down to southern Italy, are a reflection of the wide cultural ties in the areas where Beneventan script was written.

Surprisingly, there has been no evidence that any collection from the time of Gratian and beyond was copied in Beneventan script. To explain this anomaly several reasons were adduced in "Canonistica Beneventana." First, there is the well-known prohibition by the Emperor Frederick II at Melfi in 1231 forbidding the use of Beneventan for legal documents. Thereafter, Beneventan was used almost exclusively for liturgical texts. More important, the study of law from the time of Gratian and beyond was centered in the universities. Prior to this time ecclesiastical law had been a preoccupation not only outside monasteries but within, as witnessed by the

<sup>1</sup> Roger E. Reynolds, "Canonistica Beneventana," *Proceedings of the Ninth International Congress of Medieval Canon Law, Munich 13–18 Juli 1992*, ed. Peter Landau, Monumenta Iuris Canonici, Ser. C (Vatican, 1996), 21–40.

many canonical collections written in the monasteries. When legal training moved to the universities, Beneventan could not have been a script of choice. It was primarily a monastic one, slow to write and difficult to read if one were not accustomed to its peculiarities. Law professors and students from outside the Beneventan zone would not have looked favorably on the script, and hence, it is not surprising that no witnesses to Gratian's *Decretum* and canonical compilations beyond him have been reported in Beneventan script.

Now, however, a fragment of Gratian's *Decretum* has been identified. MS 9 of the Biblioteca dell'Abbazia at Montevergine is a miscellaneous theological manuscript written in a Gothic cursive hand of the fifteenth century. On fol. 1r there is a cropped ex libris, "Iste liber est domus . . .," and on fol. 1v in a sixteenth-century hand in black ink is "... beati francisci sub. . . ." On fol. 70v in the Gothic hand of the scribe is "Iste liber est monasterii Sancti laurencii de padula ordinis cartusiensis . 66 ."<sup>2</sup> In December of 1992, when the manuscript was examined, there was pasted into the back inside cover a part of a folio in Beneventan script with the hair-side uppermost. The folio had been partially unglued with the result that traces of the script could also be seen on the inside back cover. As of May 1993, the fragment had been detached from the book and assigned the shelfmark Perg. 6518. At the bottom of the Beneventan fragment is written in a clumsy, non-expert hand (ordinary minuscule of the sixteenth century), "Ego frati colubanum del patula mociro e santula . . . de la Padula(?)." The fragment itself measures 270 × 202 (184 × 176) mm. and is written in two columns, each with forty-three lines surviving. The width of column a is 82.4 mm. and column b 85.5 mm. The distance between columns is 10 mm. and the distance between lines is 3–5 mm. Binding holes are visible, and from top to bottom they measure 6, 12.5, 28.5, 78, 82, 33, and 20 mm. Ruling is from hair to flesh side and seems not to have been a direct impression. Brown ink is used for the text with red for chapter headings. Alternating red and blue initials are used at the beginning of chapters. On the side of the folio that was glued to the back cover, there is a large initial, 55 × ca. 40 mm. The letter is formed of white and red vinestem and is infilled with blue and red. The interior of the letter is filled with white and yellow vinestem terminating in blue or yellow flowers with the full body of a springing pink dog. The tail of a Q is composed of similar vinestem and flowers and terminates in two flowers, one red, the other blue. The script itself appears to be of the thirteenth century; the initials

<sup>2</sup> See G. Mongelli, "I codici dell'Abbazia di Montevergine," *Archivi: Archivi d'Italia e rassegna internazionale degli archivi*, 2d ser., 26 (1959): 177–78.

and color blue also suggest a date at least of the late twelfth century and beyond. The text from Gratian's *Decretum* is C.2 q.7 c.58–q.8 c.3, C.2 q.8 c.5–C.3, C.3 q.1 c.2–c.5, C.3 q.1 c.6–q.2 c.5. Glosses in a non-Beneventan hand can be seen in both margins.

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Among texts written in Beneventan script, liturgical ones far outnumber all others,<sup>3</sup> but legal texts are also well represented. These are primarily canon law: there are no less than twenty-one canonical collections known to have been written in the script and, as noted above, they range from the most ancient of collections down to the *Decretum* of Gratian. Other types of legal texts in Beneventan are far fewer, but they do exist. Inasmuch as Beneventan was written primarily in the southern duchy of the Lombards, one would expect there to be manuscripts of the *Leges Langobardorum*, and indeed there are five such manuscripts: Cava, Archivio della Badia della Santissima Trinità 4; Madrid, Biblioteca Nacional 413; Montecassino, Archivio della Badia 246; Naples, Biblioteca Nazionale, Branc. I.B.12; and Vienna, Österreichische Nationalbibliothek 394.<sup>4</sup> Because Beneventan was also written where Roman law prevailed in antiquity, one might also expect to find as many Roman law texts in the script. Thus far, this has not been the case. Only three manuscripts have been reported: Leipzig, Universitätsbibliothek Hänel 6 contains the *Epitome latina Novellarum Iustiniani*; Vienna, Österreichische Nationalbibliothek 395 + Ser. n. 11928 contains the *Institutiones Iustiniani*; and in the renowned *Codex Pisanus* of Justinian's *Digest*, Florence, Biblioteca Medicea Laurenziana, s.n., written in uncials of the sixth century, a Beneventan hand has written a few texts, demonstrating that the codex was in southern Italy, probably Montecassino, before travelling to Amalfi, Pisa, and Florence. Beyond these manuscripts, there are also excerpts from the *Epitome Iuliani* scattered through several south Italian canonical collections written in Beneventan, such as the *Collection of Vallicelliana Tome XVIII*, and the *Collection in Five Books* and its derivatives.<sup>5</sup> Hence, it is possible that the *Epitome* at one

<sup>3</sup> Approximately seventy percent, and as further manuscripts and fragments are found, that proportion grows higher; see Virginia Brown, "A Second New List of Beneventan Manuscripts (III)," *Mediaeval Studies* 56 (1994): 299.

<sup>4</sup> In *Leges Langobardorum*, ed. F. Bluhme, MGH Leges 4 (Hannover, 1868), lxi, it is reported that Naples, Biblioteca Nazionale Brancatiana II.B.28 containing the *Liber Papiensis* is in Lombardic or Beneventan. There exists no such manuscript by that number in Naples.

<sup>5</sup> See *Collectio canonum in v libris (lib. i–iii)*, ed. M. Fornasari, CCCM 6 (Turnhout, 1970), xiv–xv.

time circulated in manuscripts written in Beneventan, although the canonistic compilers may have drawn their texts from manuscripts written in other hands.

That Roman law texts are rarely found in Beneventan script may be due to a number of factors. First, Roman and Lombard law were at times seen to be competitive,<sup>6</sup> and hence, there might have been some hesitation to copy Roman law in Beneventan, a script particularly associated with the Lombards even the Middle Ages. Moreover, it is significant that aside from liturgical manuscripts in Beneventan, the majority of Beneventan codices date to the twelfth century and before, and in this period Roman law was known in Europe primarily in its "tribal" versions such as the *Lex Romana Visigothorum* or *Lex Romana Burgundionum*. The revival of Roman law studies from the twelfth century and beyond took place largely in university contexts, and Beneventan, primarily a monastic script slow to write and difficult to read, appears not to have been used for university purposes, as noted above in the case of canon law: apart from the single fragment of the *Decretum* of Gratian, all the canon law collections written in Beneventan antedate Gratian.

Thus far, no manuscripts in Beneventan of the *Code* of Justinian have been reported. Now, however, an example has appeared in the Biblioteca Vallicelliana in Rome, Carte vallicelliane XII, 3.<sup>7</sup> When a seventeenth-century paper manuscript, Vallicelliana P 63, containing the *Adagia graeca latine atque italice explicata*, was restored in 1982 by Angelo Pandiniglio in Rome, a bifolium containing the *Code* was detached from it. The Beneventan text is written on a bifolium cropped at the top, outer margins, and bottom so that parts of it are missing on three sides. The bifolium measures 282 × 205 mm. with two columns of text, each 91 mm. wide with and interlinear margin of 38 mm. The ruling of the twenty-three or twenty-four lines, 13/14 mm. apart, was done from hair to flesh side, perhaps after folding. The ink is dark brown with traces of black, and with the exception of a rubric in orange on fol. 2rb, there is no illumination. The script is of the eleventh century, and the text of the *Code* includes 7.64.2–9 and 7.71.8.4 through 72.6.

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<sup>6</sup> On this see Francesco Calasso, *Introduzione al diritto comune* (Milan, 1970), 294–302.

<sup>7</sup> See V. D'Urso, *Carte vallicelliane. Catalogo* (Rome, 1986) (typescript, unnumbered pp.).

## PARERGA BENEVENTANA\*

*Roger E. Reynolds and Virginia Brown*

**C**OLLIGITE *fragmenta ne pereant* is an old saw emphasizing the importance of saving scraps and fragments of manuscripts, which *prima facie* may seem to have no significance in themselves, but which may at some later time be found to be significant not only in themselves but also for the light they may shed on many fields in classical and medieval scholarship. Simply to collect and maintain these fragments, important as it is, is not enough. As researchers work with these fragments, they must report their findings so that others may put them to use in their own fields of scholarly endeavor. Ideally, descriptions of manuscript fragments should be published in the catalogues and handlists of manuscripts in the libraries and archives in which they are found. But three principal factors militate against this. First, catalogues of manuscripts and archival materials understandably concentrate on full or partial manuscripts and on archival documents and leave fragments for later consideration. Such, for example, has been the case at Montecassino, where manuscripts were long ago described in great detail, but the wealth of fragments in the *Compactiones* still awaits cataloguing and systematic study. Second, because fragments usually lack incipits or explicits and at times consist of only a few sentences or words—often damaged—they are difficult to identify, and hence remain uncatalogued. Third, new fragments continue to be discovered during the restoration of manuscripts and printed books, and often when the original pastedowns and flyleaves are removed, they are kept separately with the result that cataloguers feel unable to catch up.

As members of the *équipe* studying material for the series *Monumenta Liturgica Beneventana* have searched through libraries and archives for materials pertaining to liturgical material written in Beneventan script, they have frequently found materials, especially in fragmentary form, which may not bear directly on Beneventan-script liturgical studies but which are of sufficient significance—especially palaeographically and tex-

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tually—that they should be published. Such is the purpose of *Parerga Beneventana*: not only “Colligite fragmenta ne pereant,” but “Edite fragmenta ne pereant.”

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## NEW C.L.A. MEMBRA DISIECTA IN NAPLES AND ROME

Virginia Brown

THE continuing search for new specimens of Beneventan script frequently results in the serendipitous discovery of interesting non-Beneventan material. Such was the happy situation during the summers of 1993 and 1994 when I was preparing "A Second New List of Beneventan Manuscripts (III)."<sup>1</sup> By chance I found eight fragments belonging to three items described by E. A. Lowe in his *Codices latini antiquiores* (= C.L.A.).<sup>2</sup> The four new Visigothic fragments (C.L.A. XI. 1654) are discussed by Roger E. Reynolds on pp. 305–9 below; the remaining membra disiecta are presented here.

(i)

C.L.A. III. 400

Three small pieces belonging to Naples, Biblioteca Nazionale IV A 8 (= N). Palimpsest, upper script, fols. 1–39. Charisius, *Ars grammatica*.<sup>3</sup> Irish minuscule, s. viii. The description of the new pieces is as follows:

(a) 46 × 29 mm., parts of 5–7 lines (capitula for *Gramm.* 4.6 = Barwick, 3.30–36; *Gramm.* 1.5 = Barwick, 12.4–11), formerly missing from N, fol. 1 (bottom, center). Our plate I.1–2 (recto and verso respectively).

(b) 106 × 70 mm., parts of 17–19 lines (*Gramm.* 1.6–9, 10 = Barwick, 14.26–15.23, 17.22–18.26), formerly missing from N, fol. 2 (top, outer margin). Our plate II.1–2 (recto and verso respectively).

<sup>1</sup> Now published in *Mediaeval Studies* 56 (1994): 299–350.

<sup>2</sup> E. A. Lowe, ed., *Codices latini antiquiores: A Palaeographical Guide to Latin Manuscripts Prior to the Ninth Century*, 11 vols. and supplement (Oxford, 1934–71) (1811 manuscripts, each with a serial number). See also B. Bischoff and V. Brown, "Addenda to *Codices latini antiquiores*," *Mediaeval Studies* 47 (1985): 317–66 and 18 plates (nos. 1812–65); B. Bischoff, V. Brown, and J. J. John, "Addenda to *Codices latini antiquiores* (II)," *ibid.* 54 (1992): 286–307 and 6 plates (nos. 1866–84). A third set of "Addenda," which is currently being prepared by V. Brown and J. J. John, will include brief entries for the new fragments discussed in this article.

<sup>3</sup> K. Barwick, ed., *Flavii Sosipatri Charisii Artis grammaticae libri V*, 2d corr. ed. (Leipzig, 1964) [hereafter cited as Barwick with page and line numbers].

(c) 73 × 60 mm., parts of 7–10 lines (*Gramm.* 1.10 = Barwick, 17.14–19, 20.12–20), formerly missing from N, fol. 2 (bottom, outer margin). Our plate III.1–2 (recto and verso respectively).

These scraps were found in two envelopes containing miscellaneous fragments, including parts of at least ten folios from three Beneventan manuscripts; scrap a had been placed inside the envelope labelled “cassa-forte n° 9,” and the envelope containing scraps b and c was unlabelled.<sup>4</sup> All three scraps have now been transferred to a new, smaller envelope and deposited (May 1993) in the box containing N.

N’s fragile and mutilated state is not mentioned in the *C.L.A.* description. The parchment of this manuscript is often thin, brittle, and worn, with pieces missing from the sides and bottom of many folios; as a consequence, there are numerous lacunae in the text of Charisius. These gaps are supplied from humanist copies of N made when N’s contents were more legible and complete, i.e., prior to the use of corrosive reagents by later scholars who were attempting to decipher the lower script containing *Paralipomena* (fols. 1–24, half-uncial, s. vi<sup>2</sup>), *Lucan* (fols. 25–35, Rustic capital, s. iv), and the *Digest of Justinian* (fols. 36–39, uncial, s. vi<sup>2</sup>).<sup>5</sup>

Naturally the appearance of any new *C.L.A.* membrum disiectum, no matter how small, is welcome. The largest Charisius scrap (b) is the fragment last seen, apparently, by Barthold Georg Niebuhr (1776–1831), renowned as statesman and historian. At the end of his stint (1816–23) as Prussian Ambassador to the Holy See, he collated N for purposes of an eventual edition of Charisius and discovered that the codex contained at least one previously unknown section of the text. Niebuhr never realized his proposed edition. Instead, his work on N was communicated to others who published the results of his findings. By that time Niebuhr was dead and b seems to have gone missing once again.

The reemergence of the scrap makes for an interesting footnote in the history of classical scholarship. It also serves to remind us of Niebuhr’s philological concerns. With the help of information contained in the recent edition of his correspondence,<sup>6</sup> let us consider briefly Niebuhr’s

<sup>4</sup> I owe my knowledge of these envelopes to dott.ssa Maria Rosaria Grizzuti, who kindly showed them to me in May 1993. For a brief description of the Beneventan fragments found therein, see Brown, “Second New List of Beneventan Manuscripts (III),” 328–30. Dott.ssa Anna Garofalo, head of the Sezione manoscritti, has informed me that it is not presently known when and by whom the fragments were placed in the two envelopes, nor is the significance of “cassa-forte n° 9” clear (since no such system for the conservation of fragments is now in use).

<sup>5</sup> *C.L.A.* IV. 401, 392, 402 respectively.

<sup>6</sup> *Barthold Georg Niebuhr: Briefe. Neue Folge. 1816–1830*, ed. E. Vischer, 4 vols. in 5 (Bern-Munich, 1981–84) [hereafter cited as *Briefe*]. The references to Niebuhr’s work on Charisius by G. Walther, *Niebuhrs Forschung*, *Frankfurter Historische Abhandlungen* 35 (Stuttgart, 1993),

study of N and then his reference to the newly rediscovered b.

First, it is clear that Niebuhr sought information about N at least five years before he examined the codex itself. In February 1818 Christian August Brandis (1790–1867), Niebuhr's former secretary in Rome, travelled to Naples; among other things, Niebuhr asked him to determine the accuracy of a report that a Charisius manuscript in "Longobardic script" was to be found in that city.<sup>7</sup> The desired information, however, was not forthcoming until 1822 when Georg Heinrich Pertz (1795–1896), then in the initial stages of assembling material for the future *Monumenta Germaniae Historica*, communicated to Niebuhr the news of a palimpsest manuscript from Bobbio in the Royal Library at Naples, the upper writing containing Charisius "in Merovingian letters." In turn, Niebuhr reported (in a letter of 5 March 1823, Rome) Pertz's discovery to Vittorio Amedeo Peyron (1785–1870).<sup>8</sup>

Not long afterwards Niebuhr went to see the codex for himself. On 8 April 1823 he wrote from Naples to Christian Carl Josias Bunsen (1791–1860), his secretary during 1818–23, later his diplomatic successor at Bern and London, and like Niebuhr also a scholar, that his eyes were hurting because of N's "microscopic script." The effort was evidently worthwhile

502 and 508 n. 35, are too summary to be useful for our purpose.

<sup>7</sup> K. G. Brandis, "Neun Briefe Niebuhrs aus Italien," in *Beiträge zur Bücherkunde und Philologie August Wilmanns zum 25. März 1903 gewidmet* (Leipzig, 1903), 535: "2. Es soll zu Neapel ein Codex des Charisius mit longobardischer Schrift vorhanden seyn, wahrscheinlich die Quelle aller Ausgaben und Handschriften. Von diesem wünsche ich nur zu wissen ob er zu finden ist? und ob die Schrift longobardisch sey?" (= *Briefe* 1.1:278, no. 98 [summary]).

<sup>8</sup> *Briefe* 1.2:859, no. 508: "Par un singulier hazard, j'allais précisément Vous écrire pour Vous communiquer des notices intéressantes sur le sort d'une partie des Manuscrits de Bobbio, dont je dois supposer que Vous les ignorez: je les tiens de M. Perz, jeune historien très distingué qui exploite les bibliothèques d'Italie pour le grand ouvrage des *Scriptores rerum germanicarum*. Il découvrit, l'année passée, que le manuscrit de la bibliothèque royale de Naples qui contient une partie du *liber pontificalis*, & le *Charisius*, (l'un & l'autre en caractères Mérovingiens) est palimpseste, *venu de Bobbio*. . . ." Niebuhr observes that Pertz was able to identify the underlying texts of Lucan and Justinian but not that of "deux morceaux . . . , l'application de moyens chimiques lui ayant été interdite" (ibid., 859–60). Exactly how many folios are meant by "deux morceaux" is unclear; the two remaining palimpsest texts in N not mentioned in Niebuhr's letter are *Paralipomena* (noted above) and Gargilius Martialis, *De re rustica* (fols. 40–47, uncial, s. vi; C.L.A. III. 404).

Pertz had also communicated his discovery to Freiherr Karl vom Stein (1757–1831) in a letter of 8 September 1822 written at Naples and published in *Archiv der Gesellschaft für ältere deutsche Geschichtskunde* 4 (1822): 499–502: "Was mich besonders in dem Museum anzog, . . . eine bei den Klosteraufhebungen aus San Giovanni a Carbonara hieher gekommene Handschrift vom Ende des siebenten Jahrhunderts, deren Vergleichung ich bereits beendigt habe. Sie enthält unter dieser Schrift, dem beigegebenen Charisius und Servius, ein Fragment der Pandecten, des Lucan und zweier andern Werke, gehört also zu den *Codicibus palimpsestis* oder *rescriptis*" (501).

since Niebuhr praised the correctness of N's text and the expertise of the scribe who understood Greek. He feared, however, that it was impossible for him to collate the entire text and explained that he was restricting his study to the fragments and the most important passages.<sup>9</sup>

Niebuhr remained in Naples until early May. There are five more letters written during that stay in which he gives an account of his progress:

(1) 14 April 1823, to Brandis. Niebuhr reports that he is working five hours daily on the collation of N, which preserves several interesting and unpublished passages as well as an innumerable number of excellent readings. He has in mind an edition of Varro, *De lingua latina* (from Florence, Biblioteca Medicea-Laurenziana 51.10, Beneventan, s. xi ex.), Charisius (from N), and shorter grammatical texts (from Naples, Biblioteca Nazionale Vindob. lat. 2 [formerly Vienna, Österreichische Nationalbibliothek 16] or a manuscript in Paris or elsewhere with good readings).<sup>10</sup>

(2) 15 April 1823, to Bunsen. Niebuhr again remarks on N's abundant good readings and notes that the codex has a small and very corrupt unpublished section on Saturnian verse.<sup>11</sup>

(3) 22 April 1823, to Friedrich Bluhme (1797–1874). Niebuhr observes that N offers no new text apart from a few lines and a page belonging to book 4 (i.e., the passage on Saturnian verse). Nonetheless, his work on N is well worth the trouble since the manuscript offers several hundred good readings. Although Niebuhr asks Bluhme to inform Angelo Mai of N's textual importance, he specifies that Bluhme should not mention the passage on Saturnian verse which contains hitherto unknown fragments of ancient Latin poetry.<sup>12</sup>

(4) 22 April 1823, to Bunsen. Niebuhr's collation of N will be ready on the following day. He hopes to engage a copyist for the glossaries which form part of the text of Charisius and were omitted in the *editio princeps* (Naples, 1532).<sup>13</sup>

(5) 29 April 1823, to his lifelong friend Dore Hensler (1770–1860), sister of Niebuhr's first wife (Amalie Behrens, 1773–1815) and wife of the uncle of Niebuhr's second wife (Margarethe Hensler, 1787–1831). Niebuhr's collation of N would have been finished by this time if it were not for the fact that the library is closed in the afternoon and on Sunday. He is

<sup>9</sup> *Briefe* 1.2:886, no. 529.

<sup>10</sup> *Ibid.*, 895, no. 532.

<sup>11</sup> *Ibid.*, 897, no. 533 (summary).

<sup>12</sup> *Ibid.*, 897–98, no. 534 (summary).

<sup>13</sup> *Ibid.*, 898, no. 535 (summary). The editor of the *editio princeps* was Johannes Pierius Cyminius, schoolmaster at Cosenza and former student of Aulus Janus Parrhasius. For more information on the "glossaries" (*Glossarien*), see nn. 19 and 28 below.

pleased with the results of his work since he has improved innumerable readings and discovered an unpublished chapter on Saturnian verse with new fragments of ancient Latin poetry.<sup>14</sup>

By 9 May 1823 Niebuhr was back in Rome and in the midst of preparations for his return to Germany after nearly seven years in the Eternal City.<sup>15</sup> The homeward journey, begun on 15 May 1823, was interrupted by visits to various libraries on the way. On 3 June 1823 Niebuhr writes to Peyron from Verona and authorizes the purchase on Niebuhr's behalf of manuscripts and incunabula from the library of Bobbio, mentioning also that N is of Bobbio provenance.<sup>16</sup> In a letter of 20 June 1823 from St. Gall, Niebuhr tells Bunsen of his attempts to hire (with some haggling over the price) a certain Genovesi to transcribe nine folios of N, a task which Niebuhr himself could not do while in Naples.<sup>17</sup> These leaves contained, presumably, the texts described almost two months earlier to Bunsen as "glossaries," for which he was seeking a copyist.<sup>18</sup> Some months later, Niebuhr again refers to the *Glossarien*, specifying that they belong to book 5 and are written over a text of Lucan (N, fols. 25–35 in the present numeration, with some leaves folded in two).<sup>19</sup> From a letter of 18 December 1824 written at Berlin and addressed to his second wife Margarethe (Gretchen), it is clear that the edition of Charisius was among the next projects which Niebuhr intended to undertake.<sup>20</sup> But other commitments, especially the third and final volume of the *Römische Geschichte*, prevented him from doing so.<sup>21</sup> When Friedrich Lindemann (1792–1854) asked Nie-

<sup>14</sup> Ibid., 899–900, no. 538. Precisely the same schedule must still be observed by the modern reader who wishes to consult the more precious manuscripts (such as N) kept in the *camera blindata* and available only in the morning. Again like the modern reader, Niebuhr must have happily occupied the afternoon with sightseeing. In a letter to Bunsen written at Naples, 2 May 1823, he mentions that he will be there for two more days in order to visit Pozzuoli and Vesuvius (ibid., 902, no. 539 [summary]).

<sup>15</sup> Ibid., 902–5, no. 540 (letter of that date to his friend Count Pierre François Hercule de Serre [1776–1824], French ambassador in Naples).

<sup>16</sup> Ibid., 934–35, no. 552.

<sup>17</sup> *Briefe* 2:30–31, no. 569.

<sup>18</sup> See p. 294 and n. 13 above.

<sup>19</sup> *Briefe* 2:116, no. 598 (letter of 13 October 1823, Bonn to Bartholomäus Kopitar [1780–1844]). The works contained in the nine leaves would naturally be of great interest to Niebuhr since previous editors of Charisius had believed most of book 5 to be missing. Barwick was actually the first editor to annex these texts to book 5 (see n. 28 below); from their general headings and content (Barwick, 387–480, "De latinitate," "Glossulae multifariae idem significantes," "Synonyma Ciceronis ordine litterarum composita," etc.), it is easy to see why Niebuhr referred to them simply as *Glossarien*.

<sup>20</sup> *Briefe* 2:323 and n. 3, no. 711.

<sup>21</sup> See ibid., 502, for a list of Niebuhr's academic and diplomatic activities in 1823–25. His work on the *Römische Geschichte* continued until the end of 1825.

buhr to make available his Charisius material for Lindemann's corpus of Latin grammatical texts. Niebuhr's reply of 6 September 1825 contained detailed information regarding his study of N as well as his unsuccessful attempts to enlist various collaborators, namely, August Ferdinand Näke (1788–1836) and then an équipe consisting of Niebuhr, Heinrich Wilhelm Grauert (1804–52), Karl Friedrich Heinrich (1774–1838), and Leonhard Spengel (1803–80).<sup>22</sup> Later Niebuhr sent Lindemann helpful advice on the mutilated state of book 5 in N (24 August 1827) and good wishes for the publication of Lindemann's corpus (21 February 1828).<sup>23</sup> According to Lindemann, Niebuhr had promised to turn over to him the precious collation of N, but Niebuhr's death prevented the transfer.<sup>24</sup>

Eventually Lindemann's patience was rewarded. He gained access to the desired material some time between 1831 and 1840 when Johannes Classen (1805–91) sent Lindemann Niebuhr's copy of the 1605 edition of Charisius.<sup>25</sup> In the margins of this volume Niebuhr, adhering to a practice

<sup>22</sup> Ibid., 442–43, no. 819 (letter to Friedrich Lindemann, 6 September 1825, summary).

<sup>23</sup> *Briefe* 3:181–83, no. 956, and 263, no. 1007. Niebuhr died on 2 January 1831 and so never saw the initial volume of the corpus published in that same year at Leipzig.

<sup>24</sup> F. Lindemann, ed., *Corpus grammaticorum latinorum veterum* 4.1 (Leipzig, 1840), xi: "Nam cum adhuc in vivis esset Niebuhrius, pollicitus mihi est, fore ut mihi collationem codicis Neapolitani concederet, si quando ad Charisium edendum devenissem. Cui promisso morte praeventus stare non potuit."

<sup>25</sup> See *ibid.* and, for the edition, H. Putschius, ed., *Grammaticae Latinae auctores antiqui* (Hanau, 1605), cols. 1–266 (Charisius). As tutor to Niebuhr's son Marcus (1817–60), Classen was a member of the Niebuhr household from 1827 to 1831 and took the orphaned children to Dore Hensler in Kiel after their parents' death early in 1831 (Niebuhr died on 2 January and his wife on 11 January). He also collaborated with Niebuhr on the edition of Agathias (*Agathiae Myrinaei Historiarum libri quinque cum versione latina et annotationibus Bon. Vulcanii* [Bonn, 1828]) for the *Corpus scriptorum historiae Byzantinae*. On the close personal and academic ties between Niebuhr and Classen, which doubtless explain how Niebuhr's copy of the Putschius edition came into Classen's possession, see J. Classen, "Über Niebuhrs Leben und Wirksamkeit in Bonn, nebst einer Nachricht von seinem Ende," in *Lebensnachrichten über Barthold Georg Niebuhr aus Briefen desselben und aus Erinnerungen einiger seiner nächsten Freunde*, ed. D. Hensler, vol. 3 (Hamburg, 1839), 250–302, and *Barthold Georg Niebuhr. Eine Gedächtnisschrift zu seinem hundertjährigen Geburtstag den 27. August 1876* (Gotha, 1876); G. Wirth, "Die Anfänge des Bonner Corpus," in *Barthold Georg Niebuhr, Historiker und Staatsmann: Vorträge bei dem anlässlich seines 150. Todestages in Bonn veranstalteten Kolloquiums 10.–12. November 1981*, ed. G. Wirth, *Bonner Historische Forschungen* 52 (Bonn, 1984), 221 n. 41, 228.

There are definite instances of scholarly generosity shown Classen by Niebuhr. From 1819 to 1821 there are references in Niebuhr's letters to the abundant notes which he had taken, while at Rome, on Girolamo Lagomarsini's collations of manuscripts of Cicero's orations (*Briefe* 1.2:958, "Personen-Verzeichnis," s.v. "Lagomarsini, G."). In 1829 Niebuhr gave the material on the *Pro Cluentio* to Classen; cf. *Briefe* 1.1:453–54 and n. 15, no. 210, and J. Classen, *M. Tullii Ciceronis Oratio pro A. Cluentio habito* (Bonn, 1831), iv: "Octodecim fere menses sunt, quum Niebuhrius (quae est singularis eius erga me benevolentia) ex locupleti suo in multos Ciceronis libros apparatu critico quidquid ad Cluentianam orationem ex Lagomarsinii voluminibus incredibili diligentia Romae collegerat, mihi pertractandum et in usus meos convertendum concessit . . ." (preface, dated Bonn 8 September 1830 on p. xxiv). For the probability that this rich source

he had used elsewhere, entered the collation of N.<sup>26</sup> Not included was the separate sheet with Niebuhr's transcription of the section on Saturnian verse. Lindemann speculated that it had perished in the fire which consumed Niebuhr's house in Bonn during the night of 5/6 February 1830, and he tried in vain to acquire a new transcription from Cataldo Iannelli (1781–1841), the now infirm and retired librarian at Naples.<sup>27</sup> Nor did Lindemann have a copy of the nine folios with *Glossarien* since book 5 of his edition ends immediately before the beginning of this section.<sup>28</sup> In this

of material (*locuples apparatus criticus*) took the form of handwritten annotations in a printed edition of Cicero, see the following note.

<sup>26</sup> The format of this easily portable edition allows the insertion of marginal notes. I have consulted the copy (call number L 510\*) at Houghton Library, Harvard University, which measures, even after rebinding and hypothetical trimming, 234 × 169 (195 × 122) mm.; the height of the blank marginal space above and below the text is 13 mm. and 26 mm. respectively, and the width of the blank space in the outer margin is 31 mm. Other instances of printed books with Niebuhr's handwritten notes are (1) his working copy of the first edition of the *Römische Geschichte*, 2 vols. (Berlin, 1811–12), now in the Universitäts- und Landesbibliothek Bonn (G. Wirth, ed., "Katalog zur Ausstellung in der Universitätsbibliothek Bonn vom 13. November 1981 bis 27. Februar 1982," in *Barthold Georg Niebuhr, Historiker und Staatsmann*, 284, no. 79 and plate 4); (2) his set of Johannes Georgius Graevius's nine-volume edition (Naples, 1777–88) in quarto format of Cicero's speeches (*Katalog der Handschriften der Universitätsbibliothek Bonn*, vol. 2 [1876–1943]: "S 1033. M. T. Ciceronis Orationes . . . Cum collatione codicum Lagomarsinianorum Florentiae a B. G. Niebuhrio margini adscripta"). The present whereabouts of the latter (formerly in the possession of Johannes Classen) are unknown; see n. 41 below.

<sup>27</sup> See Lindemann, *Corpus* 4.1:xi–xii, for his contact with Iannelli. A moving letter which Niebuhr wrote to Dore Hensler immediately after the fire is edited in *Briefe* 3:509–10, no. 1214 (7 February 1830, Bonn). For the actual date of the fire, which is not given in this letter, see *ibid.*, 512 n. 1, no. 1217 (15 February 1830, addressed to Freiherr Karl von Altenstein ? [1770–1840]). Although the house was destroyed, the speed at which it burned permitted the safe removal of so many of Niebuhr's books and papers—including his personal copy of the first edition of the *Römische Geschichte* (n. 26 above)—that he could write on 25 February 1830 to Dore Hensler of damage in this regard which was much less than expected (*Briefe* 3:519–21, no. 1221); in the same letter he also notes, "Meine Abschriften ungedruckter Schriftsteller, und Collationen sind sämtlich erhalten" (520). A vivid and more detailed account of the rescue of Niebuhr's library is found in his letter of 26 February 1830 to Ernestine Voss (*ibid.*, 522, no. 1222 [summary]; complete text in Wirth, "Katalog zur Ausstellung," 321–23, no. 158).

The passage dealing with Saturnian verse was first published by F. W. Schneidewin, *Flavii Sosipatri Charisii de versu saturnio commentariolus ex codice Neapolitano nunc primum editus* (Göttingen, 1841), who used a transcription made from N by C. O. Müller. It was republished in a more accurate version, with commentary, by H. Keil, "Fragmentum Charisii," *Philologus* 3 (1848): 90–98, and the text was included in Keil's edition of Charisius (*Grammatici latini*, vol. 1: *Flavii Sosipatri Charisii Artis grammaticae libri V . . .* [Leipzig, 1857; rpt. Hildesheim, 1961], 288–89).

<sup>28</sup> *Corpus* 4.1:176, "a nobis transcripta repperiet" (= Barwick, 386.28, variant reading, continuing on 387). As mentioned in n. 19 above, Barwick was the first editor to place in book 5 the texts in N, fols. 25r–35r, of which Niebuhr, approximately a century earlier, had sought a copy. Barwick's, however, was not the *editio princeps* since the same texts had already appeared in various volumes of Keil's *Grammatici latini*; for an explanation and justification of his annexations to book 5, see Barwick, xxi–xxiv. Note, however, the comment of R. H. Rouse, "Charisius," in L. D. Reynolds, ed., *Texts and Transmission: A Survey of the Latin Classics* (Oxford, 1983), 50 n.

regard, it must be said that we do not know if Niebuhr himself ever succeeded in obtaining a copy of these leaves from the hard bargaining Genovesi.

Despite the lacunae and other problems in Lindemann's text,<sup>29</sup> his edition of Charisius is valuable for its dense apparatus with considerable information about the physical condition of N. Iannelli's description had already stated plainly that N was in wretched shape.<sup>30</sup> Fuller realization of the extent of the damage is owing to Lindemann who was the first to provide a constant visual reminder by the use of brackets [ ] enclosing words no longer legible in N.<sup>31</sup> Numerous entries in his apparatus also comment on physical defects, the fact that words are worn away (*extrita*), etc. The amount of codicological information which can be extracted from Lindemann's apparatus indicates his serious attempt at a close reading of Niebuhr's collation of N. Indeed, more than 150 entries in the apparatus allude to Niebuhr, and most of them are concerned with problems of illegibility. Approximately 120 entries with no mention of Niebuhr also have information on N's physical condition. Presumably these too derive from Niebuhr's collation since any intimation that Lindemann personally examined N—or, for that matter, any manuscript at all—is noticeably absent from the preface to his edition of Charisius.<sup>32</sup>

1: "N preserves part of the first chapter of book 5, but Barwick was surely wrong in assuming that most of the rest of N's contents also belonged to book 5." This statement is apparently based on A. C. Dionisotti, "On Bede, Grammars, and Greek," *Revue bénédictine* 92 (1982): 116–20, who questioned Barwick's procedure; her study is cited in a general fashion by Rouse.

<sup>29</sup> Keil, *Grammatici latini* 1:xxviii–xxix: "postremo Fridericus Lindemannus praeclaro emendationis praesidio instructus, Neapolitano codice a B. G. Niebuhrio excusso, in grammaticorum Latinorum volumine quarto Lipsiae a. 1840 Charisium edidit eique pro bonitate codicis, cuius copia facta fuit, salutarem sane operam praestitit. . . . sed idem cum his quae a Niebuhrio accuratissime exscripta fuerunt, ut adfirmari audivi ab iis qui eius excerpta viderunt, prudenter uti nesciret, neque emendationem corruptae scripturae magno opere adiuvit neque quid in codice scriptum esset satis accurate rettulit. ex quo siqui forte mirantur quod saepe a Lindemanni testimonio ea quae ipse in codice scripta esse dixi dissentiunt, id mihi iure videor postulare posse ut mihi potius quam illi credant." But Keil did not escape criticism when it came to what could actually be read in N. Barwick justifies in part his own edition of Charisius by observing that his personal inspection of N at Naples in 1913 and 1922 yielded a large number of instances in which Keil gave an erroneous reading of N (praef., vi–vii: "Codicem . . . examinavi atque cum Henrici Keil lectionibus contuli: haud frustra; nam sescentis locis etiam in rebus gravioribus Keil erravit").

<sup>30</sup> C. Iannelli, *Catalogus bibliothecae latinae veteris et classicae manuscriptae quae in Regio Neapolitano Museo Borbonico adservatur* (Naples, 1827), 5: "... Chartae iam aevo subflavae et nigrescentes quin in fragmenta et lacinias quadam ex parte delapsae."

<sup>31</sup> This practice, eschewed by Keil, was reintroduced by Barwick who reduced the size of the brackets from [ ] to [ ].

<sup>32</sup> Lindemann's study of Niebuhr's collation was doubtless facilitated by the fact that Niebuhr placed great importance on the clarity of one's personal handwriting (F. Lieber, *Erinnerungen aus meinem Zusammenleben mit Georg Berthold Niebuhr, dem Geschichtschreiber*

All too painfully clear is the unfortunate fact of N's deterioration between 1532 (date of the *editio princeps*) and 1840 (publication of Lindemann's edition).<sup>33</sup> Lindemann draws attention to this many times through comments such as "Haec et quae mox uncis sunt inclusa in Cod. non recte legi possunt; in Ed. pr. hiatus est nullus."<sup>34</sup> A similar inference was also made by Keil, and further deterioration of N into at least the first quarter of the twentieth century can be deduced from the apparatus in Barwick's edition.<sup>35</sup> Happily, it can be reported that the present authorities at the Biblioteca Nazionale, Naples, are fully aware of the necessity to prevent further damage to N.<sup>36</sup>

The three fragments under discussion here illustrate in a graphic manner the fragile condition of N:

—b was already separated from fol. 2 when Niebuhr examined N in 1823, and he noted the fact in his copy of Putschius's edition of 1605 since Lindemann reports, "Plura eorum, quae proxime sequuntur in Cod. deerant; sed Nieb. serius in decerpto membranae frustulo invenit."<sup>37</sup> The existence of this fragment was duly reported by Keil and Barwick, albeit in terms which show that they were relying on Lindemann and had never seen it for themselves.<sup>38</sup>

—a and c apparently still formed part of fols. 1 and 2 respectively in 1823 since Lindemann does not report an observation from Niebuhr that

*Roms* [Heidelberg, 1837], 101–3, "Wichtigkeit einer guten Handschrift"). The immediate readability of Niebuhr's own script is apparent even in the reduced facsimile of the *Römische Geschichte* with his handwritten notes (n. 26 above).

<sup>33</sup> According to Barwick, praef., vii–xi, the *editio princeps* is based on a descendant of N, namely, Naples, Biblioteca Nazionale IV A 9 (= n<sup>1</sup> in the sigla to Barwick's edition), copied in the early sixteenth century from a late fifteenth-century apograph of N: Naples, Biblioteca Nazionale IV A 10 (= Barwick's n).

<sup>34</sup> Charisius, *Gramm.* 2.14.12 "[item sapi]o" (ed. Lindemann, *Corpus* 4.1:109 n. 9 = *Gramm.* 2.13, ed. Barwick, 240.26 "[item capi] o," with no entry in the apparatus).

<sup>35</sup> Keil, *Grammatici latini* 1:xvi: "quamquam igitur membranas tum quoque lacunis corruptas fuisse adparet, tamen principe editione cum codicis scriptura conlata saepe plura quam nunc adparent olim lecta fuisse intellexi." Barwick's text of Charisius, first published in 1925, contains many new appearances of [ ] around words which could no longer be read.

<sup>36</sup> N is not normally available to readers, who are supplied instead with two sets of excellent photographs. With the help of the reproductions, I was able to suggest that the three fragments belonged to fols. 1 and 2, and dott.ssa Anna Garofalo kindly confirmed this by making the actual physical joins with the respective folios.

<sup>37</sup> Lindemann, *Corpus* 4.1:8 n. 15; b was, seemingly, the only separated fragment found by Niebuhr since Lindemann's apparatus does not mention other such *frustula*.

<sup>38</sup> Keil, *Grammatici latini* 1:16–17, app. ad 16.29: "Ex quadraginta septem versibus, qui in universa pagina scripti sunt, novem tantum qui medii sunt integri restant; reliquorum exitus perierunt. ex his primos versus integros legit Pierius: inde a duodevicesimo versu *De ordinibus* sqq. paullo plura quam quae nunc restant ei adparuerunt. praeterea in illis decem et septem versibus quae desunt 'serius in decerpto membranae frustulo' a Niebührio inventa esse narrat Lindemannus. quare utriusque supplementa adscripsi ea ratione observata, ut ubi non adnotata esset

they are missing. By 1857, however, the separation of both pieces had taken place; Keil's transcription of the relevant passages reveals the lacunae.<sup>39</sup>

Naturally it is to be hoped that more fragments of N will emerge. Such discoveries may be more likely, perhaps, than the recovery of Niebuhr's annotated copy of the 1605 edition of Putschius. This volume seems to have first dropped out of sight after the publication of Lindemann's edition; neither Keil nor Barwick actually saw it or knew of its whereabouts, and so the label "missing" was generally affixed.<sup>40</sup>

More information, albeit of a bittersweet nature, has now come to light. At some point Lindemann (†15 June 1854) or his heirs must have returned the precious book to Johannes Classen: after Classen's death in Hamburg on 31 August 1891, Niebuhr's annotated copy of Putschius's 1605 edition of Charisius entered *ex legato Johannis Classenii* what is now the Universitäts- und Landesbibliothek Bonn and received the shelf mark "S 1032."<sup>41</sup>

discrepantia, Niebuhrius cum ω consentire existimaretur"; Barwick, 14, app. ad l. 26: "suppl. ex n et Nieb(uhrio), cui, ut adnotat Lin., praesto erat 'decerptum membranae frustulum.'"

<sup>39</sup> Keil, *Grammatici latini* 1:5, 14, 19, 22 (the transcription of N is placed directly below the text).

<sup>40</sup> For example, Keil's knowledge of Niebuhr's collation was based on hearsay: "sed idem [= Lindemann] cum his quae a Niebuhrio accuratissime exscripta fuerunt, ut adfirmari audiui ab iis qui eius excerpta viderunt, prudenter uti nesciret . . ." (*Grammatici latini* 1:xxviii). See also Vischer's comment in *Briefe* 1.2:895 n. 10, no. 532 (Niebuhr's letter to Brandis, 14 April 1823, Naples): "Keil weiss noch aus mündlicher Tradition . . . von N.s textkritischer Arbeit, deren Ergebnisse F. Lindemann nach N.s Tode endgültig zur Verfügung gestellt wurden. Lindemanns Ausgabe (1840) fusste z. T. darauf. Ob N.s Randnotizen sich in Zwickau erhalten haben oder verloren gegangen sind, ist m. W. nicht bekannt. Keil und Barwick jedenfalls haben sie nicht gesehen."

<sup>41</sup> No evidence seems to be available at present which might explain when or how Lindemann returned Niebuhr's annotated text of Charisius to Classen. Lindemann's own library of 3000 volumes was bequeathed to the Gymnasium in Zittau, of which he had been rector from 1823 to 1853; see *Allgemeine Deutsche Biographie* 18 (Leipzig, 1883), 674–78 (Vischer's association of Lindemann with Zwickau quoted in n. 40 above is apparently a slip). The library of the Zittau Gymnasium, now known as the Christian-Weise-Bibliothek, has no correspondence between Lindemann and Classen (letter of 25 September 1995 from Dr. Paul Kirsch, Sachgebietsleiter Wiss. Altbestand), nor is any material of this kind preserved in the Stadtarchiv Zittau (letter of 6 December 1995 from Dr. Jutta Rothmann, Director). Prof. C. Joachim Classen, great-grandson of Johannes Classen and currently Professor of Classics at the Georg-August-Universität, Göttingen, has kindly informed me (letter of 25 September 1995) that the material contained in Johannes Classen's archive remains to be explored. I am much indebted to Dr. Christine Weidlich of the Handschriften- und Rara-Abteilung, Universitäts- und Landesbibliothek Bonn; she replied with exemplary patience to my queries and generously supplied photocopies of the accession list for 1891/92 as well as the material cited in nn. 42 and 43 below.

After leaving the Niebuhr household in Bonn and finishing his *Habilitation* there (1829) and in Kiel (1831), Johannes Classen taught at Lübeck (from 1833); in 1853 he became director of the Gymnasium at Frankfurt and held this post until 1864 when he was named director of the Johanneum at Hamburg. The most important of his classical scholarly works is his two-volume commentary on Thucydides (Berlin, 1862–78). For the life and scholarly activities of Johannes

There it was preserved until the bombing of the city in the early hours of 18 October 1944 and the attendant destruction of seemingly most of the Library holdings, including the *Gelehrtennachlässe*, which had not been removed to a safer place. S 1032 is now listed as missing.<sup>42</sup> This second disappearance of Niebuhr's annotated copy of Putschius's 1605 edition of Charisius may be final.<sup>43</sup>

## (ii)

## C.L.A. IV. 434

Rome, Biblioteca Vallicelliana, Carte vallicelliane XII, 2. Vita s. Susannae (B.H.L. 7937).<sup>44</sup> Uncial, s. viii. One folio, cropped on all sides and now

Classen, see F. Schultess, *Johannes Classen: Gedächtnisschrift der Gelehrtenschule des Johanneums* (Hamburg, 1892), and the brief article in *Neue deutsche Biographie* 3 (Berlin, 1957), 264, by C. Joachim Classen. I should like to thank Prof. Anthony Grafton for a photocopy of the Schultess volume.

Two other items belonging to Johannes Classen appear in the Bonn accession list for 1891/92: Johannes Georgius Graevius's nine-volume edition of Cicero's speeches (Naples, 1777–88) containing marginal annotations in Niebuhr's hand (= S 1033, and see n. 26 above); a copy of *Dod's Peerage, Baronetage and Knightage of Great Britain and Ireland for 1876* (London, 1876). Prof. C. Joachim Classen has told me (letter of 6 August 1995) that the library of Johannes Classen was sold to the Staatsbibliothek (destroyed July 1943) in Hamburg. Further, he has suggested (letter of 3 September 1995) that "the reason why some of his books were given to Bonn is no doubt that he felt some loyalty to the university where he did his degree (1829)." (Bonn must also, of course, have evoked for Johannes Classen memories of his close association with Niebuhr, and he may have considered it fitting that the volumes with Niebuhr's annotations return to that city). The rather surprising appearance of *Dod's Peerage* among the holdings of Johannes Classen may have some connection with his trip to England and Scotland in 1875 when he visited one of his sons (Schultess, *Johannes Classen*, 32). Why this book was included in the legacy to Bonn is not presently known.

<sup>42</sup> V. Burr, ed., *Universitäts-Bibliothek Bonn. Verzeichnis der nach dem 2. Weltkrieg als fehlend festgestellten Handschriften* (Bonn, 1968), 15. Also missing (*ibid.*) is Niebuhr's annotated copy of Cicero (S 1033) mentioned in nn. 26 and 41 above. In a letter of 13 July 1995 Dr. Birgit Schaper of the Handschriften- und Rara-Abteilung reports the loss of the volume of *Dod's Peerage* belonging to Classen (cited in n. 41 above).

<sup>43</sup> Photographs of the University buildings in ruins after the bombing (e.g., K. Gutzmer, *Chronik der Stadt Bonn* [Dortmund, 1988], 185) do not inspire much optimism that the volume could have survived. Despite the hope expressed by Burr (*Universitäts-Bibliothek Bonn*, Vorwort) that missing material would eventually turn up in other libraries and archives or in booksellers' catalogues, Dr. Weidlich has confirmed (letter of 16 May 1995) the recovery of only a single item.

<sup>44</sup> B. Mombricitus, *Sanctuarium*, 2d ed. (Monachi Solesmenses), vol. 2 (Paris, 1910), 554.46–52, 53–555.2, 3–10, 10–17. The surviving text of Carte vallicelliane XII, 2 (= V) differs from that of Mombricitus in the following places (simple orthographical variants excluded):

554.47 ad] at V    554.49–50 idolis seruiendo erectus] <?>st idolis seruien<du>m et erectus V    554.51 reuerende] <re>uerentissime (-mae V<sup>2</sup>) V    quae] quod V    554.52 tardetur] <tardetu>r et moretur V    554.55 instante] instruite V    555.5 dixit] dicens V    dicit Gaius] dicit ei Gaius V    555.7 quaeramus] quaeram V    credere] -ret V

measuring  $282 \times 190$  ( $274 \times 190$  <estimated width ca. 230>) mm., 2 cols., 29 of an estimated original 31 lines surviving. Removed from MS P 63 (*Adagia graeca latine atque italice explicata*, s. xvii, paper) when this codex was restored in 1982.<sup>45</sup> Our plate IV (detail of the recto).

Codicological details given by Lowe for the remains of a large leaf folded in two and now Rome, Biblioteca Vallicelliana R 32, fols. 16–17 (*C.L.A.* IV. 434, *Acta s. Anastasiae martyris*) are identical with those of Carte vallicelliane XII, 2 in terms of the quality of the parchment (rather stout), double bounding lines enclosing each column, dark ink, no ornamentation or color, and the point used to mark all pauses. The same types of abbreviation are also found: normal forms of the Nomina Sacra (with the horizontal stroke often crossed); **q**; = -que; omitted **m** marked by a simple stroke over the vowel. Ruling on the flesh side (not direct impression) in Carte vallicelliane XII, 2 supplies an additional codicological fact, namely, that on at least one occasion two or more folios must have been ruled at the same time. Offsets on the recto (col. b11 ff.), visible in our plate IV, contain supplementary prayers for the feast of SS. Peter and Paul and come from the verso (col. a) of Carte vallicelliane XII, 1, a fragment of a twelfth-century missal formerly placed next to the uncial leaf in MS P 63.

Distinctive palaeographical features of Carte vallicelliane XII, 2 agree with those noted by Lowe for MS R 32, fols. 16–17: the bow of **a** is often a thin pendant oval; the two bows of **B** do not touch; **G** has a long, thin tail; the second bow of **M** is higher than the first and turns inward; the bow of **P** is low and full.

Note, however, that there are a few minor differences. To judge from the amount of text now missing in the new fragment, the number of lines per column in this leaf was probably 31 rather than 32 as seen in MS R 32, fols. 16–17. Moreover, our plate IV shows that Carte vallicelliane XII, 2 exhibits the customary uncial **q** instead of the unusual capital **Q** noticed by Lowe in MS R 32, fols. 16–17.

555.8 uestra pollicitatione] -tram -nem *V*    555.8–9 Respondit Gaius] Gaius episcopus dixit *V*    555.9 domini *om.* *V*    tibi omnia] omnia tibi *V*    555.10 Gaii et iacens] Gaii episcopi et iactans *V*    555.11 puluere terrae ante] purue<re ter>rae in *V*    aiebat] agebat *V*    lumen] lumen ae<ternum> *V*    555.12 propter] et *V*    555.13 obtuli] optulit *V*    gratia tua] -tiam tuam *V*    555.15 domum] ad domum *V*    555.16 accessisset] accedisset *V*.

<sup>45</sup> Another leaf removed from MS P 63 during the restoration process contains Iustinianus, *Codex* in Beneventan, s. xi and is now Carte vallicelliane XII, 3; see R. E. Reynolds, "Gratian's *Decretum* and the *Code* of Justinian in Beneventan Script," p. 288 above, and also Brown, "Second New List of Beneventan Manuscripts (III)," 337.

But these discrepancies are not sufficient to cast doubt on the suggested reunion of the fragments. The fragment preserved in MS R 32 exhibits on the verso the quire-mark "XXXI." If we assume that the original manuscript was a collection of saints' lives in calendrical order, a substantial number of leaves would have separated the Vita s. Susannae (11 August) from the Acta s. Anastasiae (25 December). In such a long codex, some variation on the part of the scribe with respect to letter-forms, number of lines, etc. is understandable.

*Bibliography:* V. D'Urso, *Carte vallicelliane. Catalogo* (Rome, 1986) (typescript, unnumbered pages).

## VISIGOTHIC-SCRIPT REMAINS OF A PANDECT BIBLE AND THE *COLLECTIO CANONUM HISPANA* IN LUCCA\*

Roger E. Reynolds

ONE of the most famous and important extant early medieval bibles is written in Visigothic script, the so-called Danila Bible now at Cava, Archivio della Badia della Santissima Trinità 1. Written in three columns in the ninth century and bearing later annotations in Beneventan script, it is regarded as one of the great pandect Bibles produced on the Iberian peninsula in the early Middle Ages.<sup>1</sup> How it arrived at Cava is not entirely clear, but it is only one of a number of Visigothic-script manuscripts on the Italian peninsula in the early Middle Ages. Among the other early examples is the renowned *Orationale* of Verona, Biblioteca Capitolare LXXXIX, which was written in the late seventh century in Tarragona and travelled through Sardinia and eventually to Verona.<sup>2</sup> Another famous Italian early manuscript containing Visigothic script is in Lucca: MS 490 of the Biblioteca Capitolare Feliniani in Lucca is well known to palaeographers for its varieties of late eighth-century scripts, including Visigothic. Thus, Lucca seems to have been a location where not only codices in Beneventan script came to rest, but also those in Visigothic.

In May and June of 1994, during a search in the Archivio di Stato in Lucca for Beneventan-script remains used as covers or supports for archival material, four large fragments came to light of what must have been a glorious three-column pandect Bible written in southern Spain in

\* These fragments, discovered by Virginia Brown during research for the project *Monumenta Liturgica Beneventana* in July 1993 and June 1994, would not have come to light without the help of dott. Giorgio Tori, Director of the Archivio di Stato, Lucca, who has granted permission to publish them. The interest and generosity of dott. Tori and his staff is here gratefully acknowledged.

<sup>1</sup> See Agustín Millares Carlo, *Tratado de Paleografía Española, I: Texto*, 3d ed. (Madrid, 1983), 326; and E. A. Loew, *The Beneventan Script: A History of the South Italian Minuscule*, Second edition prepared and enlarged by Virginia Brown, vol. 2: *Hand List of Beneventan MSS.*, Sussidi eruditi 34 (Rome, 1980), 30. For the date and later history of this manuscript, see "The Codex Cavensis: New Light on its Later History," in E. A. Loew, *Palaeographical Papers 1907–1965*, ed. Ludwig Bieler, 2 vols. (Oxford, 1972), 2:335–41.

<sup>2</sup> See, e.g., Millares Carlo, *Tradado*, 342, no. 345; and Klaus Gamber, *Codices liturgici latini antiquiores* (Fribourg/S, 1968), no. 330.

the late eighth or early ninth century in Visigothic script. These fragments, some of which were attached to archival material in May 1994, have since June of 1994 been separated, placed in a single busta labelled "Codex 517: Frammenti in Visigotica, 3 col. sec. ix-x," and assigned the numbers 1 through 4 by the Archivist.

Fragment 1 was removed from a volume, "Potesta di Lucca 1591," so noted in pencil on the verso. At the top of the recto is written "Cotaib(/) E 1543." The folio, which is cropped in the third column (see plate I), measures  $295 \times 281$  ( $263 \times 247$ ) mm. The fine-quality parchment is of a medium thickness. The flesh side (verso) was outside when used as an archival cover; the hair side is very yellowed with a stain in the upper center. The folio bears prickmarks (holes, not slits) on its hair side between the second and third columns and was ruled in drypoint on the hair side. The measurements of the vertical rules for columns from left to right are 6, 23, 5, 62, 21.5, 6, and 53 mm. apart. The horizontal ruling is across the folio but stops at the inner rule of the outside margin. On this folio there are forty-three written lines, 7 mm. apart. On the recto, the word "Incipit" is in red with blue infill, and the word "Epistula" is in green. These were originally ca. 13 mm. high and were positioned in the columns. Measuring 2.5 mm. are the rubrics over the columns. The word "Argumentum" is in red and "Hebrei" in red over a yellow *H*. The numbers of the *capitulationes* are in alternating green and red with opposing headings in red and green. The large majuscule letters of 13 mm. are in the left margin, and the chapter numbers are in red with dark green, yellow, or blue. The general script, in brown ink with minims of 1.5 mm, and ascenders and descenders of 5 mm., was the work of one scribe, although the *Argumentum* in a smaller script may suggest a second. There are several contemporary inter-columnar annotations. The text begins with the *capitulationes* of the Book of Hebrews and proceeds from Hebrews 1:1 through 7:4.

Fragment 2 formerly served as a loose cover wrapped around "Potesta di Lucca 1698," pencilled on fol. 1v of the fragment, although the date of the volume of records was 1495. The folio, which is cropped off in the third column and at the bottom, measures  $422 \times 284$  ( $392 \times 244$ ) mm. Binding holes are visible on the folio and from top to bottom measure 17, 49, 59, 77, 81, 116, 137, 207, 215, 227, 292, 306, 339, 372, and 422 mm. From flesh to hair side the folio bears 63 vertical prickmarks (holes) in the inter-columnar space between the second and third columns for horizontal ruling 7 mm. apart. Marginal ruling, display scripts, and general script are virtually the same as Fragment 1. The text runs from James 1:19 to 1 Peter 1:7, including the *capitulationes* of 1 Peter.

Fragment 3, labelled as such on the verso side and formerly serving as a cover for “Curia de Fondaco 1587,” is a full bifolium measuring  $525 \times 758$  mm. (with a writing space on each folio of  $400 \times 262$  mm.). Since it was used as an archival cover, it was folded and bears stitch marks at the fold from top to bottom measuring 33, 70, 143, 223, 303, 380, 460, and 490 mm. The sequence of the texts indicates that the original folding of the bifolium was the reverse of its present folding. Rectangular pieces have been cut out of the second folio. Vertical prickmarks (holes), 7 mm. apart, made from hair side to flesh side for horizontal ruling are visible between the first and second columns on the left folio and second and third on the right. Prickmarks (holes) for vertical ruling 14 mm. from the top of the bifolium and 21 mm. above the bottom are visible and measure from left to right (fol. 1) 82, 88, 148, 154, 176, 183, 245, 251, 273, 279, 341, 347, and (fol. 2) 415, 421, four missing because of cut in parchment (ca. 483, ca. 489, ca. 512, ca. 517), 578, 584, 605, 611, 671, and 677 mm. Although the vertical prickmarks are for the entire bifolium, the horizontal ruling of sixty-four lines, beginning 44 mm. below the top of the bifolium and ending 81 mm. above the bottom, was made for a single folio at a time; that is, they go to the inner margins of the left and right columns on a single folio but not through the center of the bifolium. The display scripts and general script are like those of Fragments 1 and 2. On fol. 2v is a correction in Visigothic script, and between columns 2 and 3 “almas” is written four times in a later cursive hand. On fol. 1r between columns 1 and 2 are several numbers and a cursive text including “1543 CT Manu \$ ADT” and “Antonii de Turribus . . . anni 1543, 1655.” The text runs from the prologue to Esther and Esther 1:1 through 4:6 (on fol. 2r–v) and from Wisdom 18:1–2 through the *capitulationes* of Ecclesiasticus (on fol. 1r–v).

Fragment 4 was detached from a document, “Vicario per commissario di Camaioire atti civile / 519,” although the date of the contents of the volume is 1543. On the hair side in a late hand is “Curie Camaiorii annorum MDXXXIII S Io Alusii Cannt”; then in the middle is the subscription “Ioannis Asoisii Antbarini 2 diem 1543”; again in the third column is “1655” in different ink; also on fol. 1v in the center is a large “1543.” Although as of June 1994 they were no longer with the fragment, in May 1994 there were pasted to the verso or hair side of the folio two paper labels and two pastedowns in Carolingian script. The folio measures  $519 \times 365$  ( $399 \times 280$ ) mm. with a triangular tear on the right side of fol. 1r. The pricking, ruling, and layout are like those of the bifolium of Fragment 3, the only difference being that in the intercolumnar space are written the Hebrew words “Aleth, Tau,” etc. alternating in red and green. In the dis-

play script yellow wash has been added to the red, blue, and green. Fol. 1v has a large *E* (29 × 29 mm.) with geometric designs and a bird's-head upper extension. Otherwise, display scripts and general script are like those of the other fragments. The text runs from Lamentations 4:14 through the prologue to Ezekiel and Ezekiel 1:1 through 1:10.

Although the fragments were assigned a ninth- or tenth-century date in Lucca, they are indeed earlier. Barbara Shailor has suggested that they were likely written in Toledo or its environs in the late eighth or early ninth century. Moreover, she has pointed out that they are in all respects like a folio bearing Joshua 21:31 through 22:33 now in New York, Columbia University Plimpton 27, which E. A. Lowe dated to the late eighth or early ninth century and placed in the same scriptorium as the famous pandect Vulgate *Codex Toletanus* (Madrid, Biblioteca Nacional Vitr. 13.1 [Tol. 2.1]), the *Etymologies* of Isidore of Seville (El Escorial, Real Biblioteca de San Lorenzo &.I.14), and the *Chronicon* of Isidore Pacensis (London, British Library Egerton 1934 + Madrid, Biblioteca de la Real Academia de la Historia 81).<sup>3</sup> A comparison of the number of columns, lines and bounding lines, punctuation, abbreviations, ink, and other features in the Plimpton and Lucca leaves shows remarkable similarities and confirms Shailor's suggestion.<sup>4</sup> Moreover, the fact that the Plimpton folio has entries in an Italian hand of the sixteenth or seventeenth century ("Procissi de Lorenzi <?> con lazari Ar<nolfino?> <?> Pura Produita presso Vannettio <?> et <?>"), as do the Lucca folios, strongly suggests that they were at one time from the same Bible. Consuelo Dutschke, who is currently compiling a catalogue of the Columbia University medieval and Renaissance manuscripts, has further pointed out that the Columbia folio was given the University in 1936 by George Plimpton, who had close connections with a certain Giuseppe Martini of Lucca.<sup>5</sup>

Whether all of the manuscripts and leaves connected by Lowe to the same scriptorium are indeed from Toledo or farther south, perhaps Córdoba, and whether they are all to be dated to the late eighth or early ninth century, as Lowe argued, has been disputed by a number of Spanish scholars.<sup>6</sup> Díaz y Díaz, while accepting Lowe's dating for most of the

<sup>3</sup> See E. A. Lowe, *Codices Latini Antiquiores*, vol. 11 (Oxford, 1966), no. 1654; and "On the Date of the Codex Toletanus," in Loew, *Palaeographical Papers 1907-1965* 1:135-38.

<sup>4</sup> I am very grateful to Professor Shailor for her suggestions and for her connection of the Lucca leaves and the Plimpton leaf.

<sup>5</sup> I am grateful to Dr. Dutschke for this information.

<sup>6</sup> On the manuscripts and their dating, and especially on Plimpton 27, see Agustín Millares Carlo, "Manuscritos visigóticos: Notas bibliográficas," *Hispania sacra* 14 (1961): 337-444, esp. 393; Manuel C. Díaz y Díaz, "Problemas de algunos manuscritos hispánicos de las Etimologías de Isidoro de Sevilla," in *Festschrift Bernhard Bischoff zu seinem 65. Geburtstag*, ed. Johanne

manuscripts, points out that the pricking system in both Plimpton 27 and the Escorial Isidore was common in a number of conservative scriptoria in the ninth and tenth centuries; further, Díaz has contested Lowe's dating of the *Codex Toletanus*, arguing that it was written ca. 950 and retained a number of archaic codicological and palaeographical features, probably out of reverence for the text of the Bible.<sup>7</sup> In any event, the newly found Lucca leaves together with the Plimpton leaf are a significant addition to a small group of great early Spanish pandect Bibles in Visigothic script.

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Since it was compiled in the seventh century, the national collection of canon law on the Iberian peninsula has been the *Collectio canonum hispana*. This large collection of the canons of oriental, African, Gallican, and Spanish councils and the decrees of popes was painstakingly copied on parchment throughout the Middle Ages and continued to be so well into the eighteenth century.<sup>8</sup> Of the twenty-one surviving early medieval manuscripts and fragments of the collection hitherto reported,<sup>9</sup> nine were written in Visigothic script and are all still kept in Spanish depositories. Outside Spain other manuscripts of the *Hispana*, not written in Visigothic script, circulated widely and were modified to conform to the needs of regions and times. By the eighth century there was in circulation in Frankish territories the so-called *Collectio hispana gallica*. This collection was modified in the mid-ninth century by the Pseudo-Isidorian atelier to form the *Collectio hispana gallica Augustodunensis*, named for the city whence the first known manuscript of this version was found.<sup>10</sup> Inserted into the manuscripts of the Pseudo-Isidorian Decretals, this version had wide

Autenrieth and Franz Brunhölzl (Stuttgart, 1971), 70–80, esp. 74; Millares Carlo, *Tratado*, 135 and 335, no. 229; and Jorge M. Pinell, "Los textos de la antigua liturgia hispánica: Fuentes para su estudio," in *Estudios sobre la liturgia mozárabe* (Toledo 1965), 115, esp. no. 17, who calls the Plimpton folio a *Commicus*.

<sup>7</sup> Díaz y Díaz, "Problemas," 74.

<sup>8</sup> See Gonzalo Martínez Díez, *La colección canónica Hispana*, vol. 1, *Monumenta Hispaniae Sacra, Serie canónica 1* (Madrid, 1966), 11–13.

<sup>9</sup> To be added to the manuscripts listed by Martínez Díez, *ibid.*, 11 and 104–46, are Florence, Biblioteca Medicea Laurenziana Ashb. 1554 (s. XII<sup>1/2</sup>) [excerpts]; Florence, Biblioteca Riccardiana 258 (s. XII) [excerpts]; Oxford, Bodleian Library Holkham misc. 19 (s. XII in.; Tuscany, perhaps Pistoia); and Paris, Bibliothèque Nationale lat. 4280 (s. XII) [excerpts].

<sup>10</sup> See Horst Fuhrmann, *Einfluß und Verbreitung der pseudoisidorischen Fälschungen von ihrem Auftauchen bis in die neuere Zeit*, *Schriften der MGH 24.1* (Stuttgart, 1972), 151.

broadcast throughout the Middle Ages.<sup>11</sup> Another form of the *Hispana* was compiled in Spain, one in which the canons of the historically arranged *Hispana* were ordered according to topic. This *Collectio hispana systematica* is found largely in manuscripts written in Carolingian script in France, although two from ninth-century Lyons with its large population of Visigothic emigrés have Visigothic-script annotations; another manuscript of this collection in a slightly different form was written in Arabic in the eleventh century and has Visigothic annotations.<sup>12</sup>

Antedating these rather full collections of the *Hispana* and *Hispana systematica* are other Spanish canon law compilations that had wide diffusion in northern and central Italy at least from the eighth century and probably before as Spanish travellers, then emigrés, brought their law books with them. One of these collections antedating the *Hispana* is called the *Collectio Novariensis*, so named after a manuscript in Novara. This collection, compiled between the mid- and late sixth century, is now known to exist in nine manuscripts, but none is from Spain.<sup>13</sup> The same is true for another Spanish collection antedating the *Hispana*, the so-called *Epitome hispanica*, now found in eleven manuscripts, many originating in northern and central Italy, and also in southern Germany.<sup>14</sup> Two of the earliest Italian manuscripts of the *Epitome* are located in Verona and Lucca, cen-

<sup>11</sup> See Schafer Williams, *Codices Pseudo-Isidoriani: A Palaeographico-Historical Study*, Monumenta Iuris Canonici, series C, Subsidia 3 (New York, 1971), for a partial list of these manuscripts.

<sup>12</sup> See Roger E. Reynolds, "The 'Isidorian' *Epistula ad Leudefredum*: An Early Medieval Epitome of the Clerical Duties," *Mediaeval Studies* 41 (1979): 276–78. Additional fragments in Arabic can be found in Lisbon, Arquivo Nacional da Torre do Tombo, Sé de Coimbra, segunda incorporação, maço 45, nº 1806 (s. XI); on which see M.-T. Urvoy, "Note de Philologie Mozarabe," *Arabica* 36 (1989): 235–36.

<sup>13</sup> Brescia, Biblioteca Civica Queriniana B.II.13 (s. IX–X; upper Italy); Florence, Biblioteca Medicea Laurenziana Calci 9 (s. XII<sup>1/4</sup>; central Italy) [excerpts]; Lucca, Biblioteca Capitolare Feliniana 124 (probably s. XI<sup>4/4</sup>; central Italy); Monza, Biblioteca Capitolare H-3/151 (s. IX<sup>2/2</sup>; upper Italy); Novara, Biblioteca Capitolare XV [30] (s. XII<sup>1/2</sup>; Italy), XXX [66] (s. IX<sup>3/4</sup>–X<sup>1/2</sup>; Novara), and LXXXIV [54] (s. VIII ex.; upper Italy); Oxford, Bodleian Library Laud. misc. 421 (olim 893) (s. IX ex.; western Germany) [excerpts]; Paris, Bibliothèque Nationale lat. 12448 (olim Sangerm. Harl. 386) (s. IX–X; probably eastern Francia) [excerpts].

<sup>14</sup> Copenhagen, Kongelige Bibliotek Ny Kgl. Saml., 58 8° (s. VIII<sup>1/2</sup>; southern France); Lucca, Biblioteca Capitolare Feliniana 490 (s. VIII–IX; Lucca); Merseburg, Archiv des Domkapitels 104 (s. IX/X; northern Italy or southern France); Munich, Bayerische Staatsbibliothek Clm 3853 (153 Aug) (s. X<sup>2/2</sup>; southern Germany; provenance Augsburg?), Clm 6241 (s. X<sup>3/3</sup>; Freising) [excerpts], and Clm 14468 (a. 821; Regensburg); Paris, Bibliothèque Nationale Baluze 270, fols. 177r–178v + Lyons, Bibliothèque de la Ville 788 [706], fols. 100r–101v (s. IX) [fragment]; Vatican City, Biblioteca Apostolica Vaticana Vat. lat. 5751 (s. IX–X; upper Italy, provenance Bobbio) and Ottob. lat. 3295 (s. IX<sup>2/2</sup>; Mainz) [excerpts]; Verona, Biblioteca Capitolare, LXI [59] (s. VII–VIII; Verona); Vienna, Österreichische Nationalbibliothek 2232 (s. IX in.; southeastern Germany).

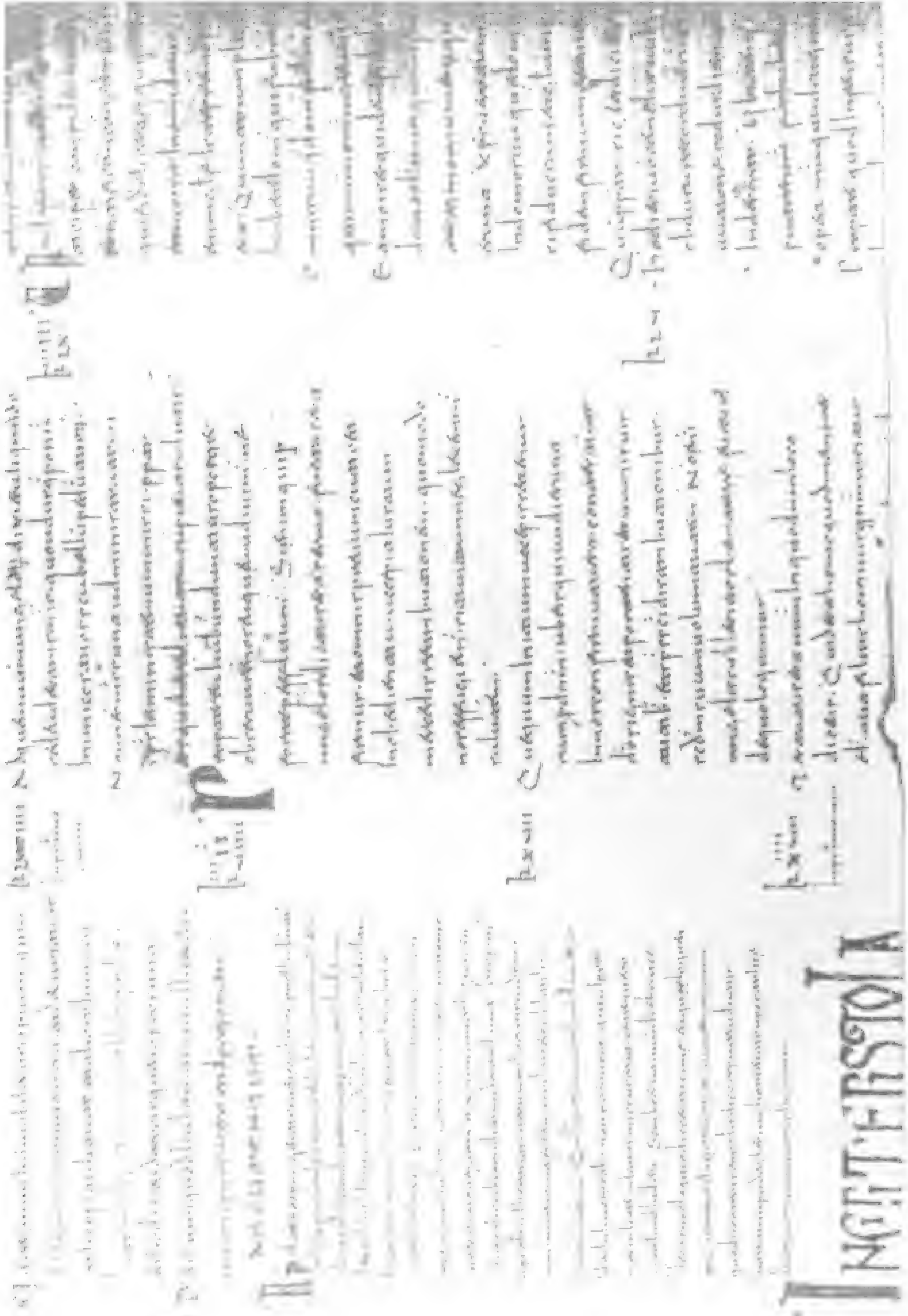
ters known for Visigothic-script codices and fragments, as noted above.<sup>15</sup> Hence, it is possible that the extant manuscripts of the *Epitome* in these two cities were copied from Visigothic-script models. These have disappeared, but a folio of a large manuscript of what is probably the full *Hispana* has been uncovered in 1994 in the Archivio di Stato in Lucca, where it was used as a wrapper for archival material.

The large folio has been designated by the Archivist as of June 1994 as "Codex 587" and placed in a busta by itself. In the upper right-hand corner of the recto is "S FI// PPO CHECCHI 1547," next to which in blue ink is "5" (see plate II). In the lower right-hand corner in the same ink is "22/8." The folio, measuring 320 × 224 (290 × 220) mm., has been cropped on the left and right sides and the entire bottom. The parchment of good quality is of medium thickness. The only pricking now visible was done from flesh to hair side with slits between the two columns of text. The ruling for the remaining forty-six lines, 8 mm. apart, is no longer visible. The extant full column measures 290 × 109 mm., and the intercolumnar space is 21 mm. There is a running title at the top of the folio, "CONCILIUM EMERITENSE." Rubrics over the columns in Visigothic script are in orange. Initials in orange of ca. 12 mm. in the left-hand margin are in Visigothic script. The writing, with minims of 2 mm. and ascenders and descenders of 6 mm., is in brown ink. There is only one hand at work, and peculiarities of the script, such as the verticality of the letters, suggest that it was copied in the eleventh century, probably in the north of Spain. Barbara Shailor has also suggested an eleventh-century date and would place the leaf in the vicinity of León. It bears a certain resemblance to manuscripts from the scriptorium at Sahagún, which flourished in the mid-eleventh century to the later half of the century. How and when it reached Lucca is uncertain, but its importance lies in the fact that it is the only known fragment of what was probably a complete manuscript of the *Hispana* in Visigothic script outside Spain.<sup>16</sup> The text is from the *capitulationes* and canons 1–8 of the Council of Merida of A.D. 666.<sup>17</sup>

<sup>15</sup> See p. 305.

<sup>16</sup> Given the fact that only a partial text of the Council of Merida is given, it is possible, of course, that the folio was part of a libellus with the text of the Council of Merida only, if not a fragment of a full manuscript of the *Collectio canonum Hispana*.

<sup>17</sup> See José Vives, *Concilios Visigóticos e Hispano-Romanos*, España Cristiana, Textos 1 (Barcelona-Madrid, 1963), 325–32, based on Gerona, Biblioteca Capitular 4 (olim 13) (s. XI), fols. 244v–251v.



I. Lucca, Archivio di Stato 517. Fragment 1 (bottom recto).

[illegible][illegible]



I. Utrecht, Rijksmuseum of the Catharijneconvent BMH Sp p i 8, I-V  
(reverse view of spines).

ahimunicatum. Sa  
nita suspiraturum  
aque familia. In  
i. Filii bale. heru  
credaturum. Sa  
uo finit. noctu  
sima filii benam  
ad suas quoz num  
. Filii dan. nece

1

usum aquo sumu  
rum. her cogna.  
tius suas co. fiedu  
ne mu. e. 2  
filii unis rec. 2  
aque familia  
filii aquo pe  
m. her aquo sum  
. Filii her abo. ac  
gaturum. Et me  
nita malchelon

2

II. Utrecht, Rijksmuseum of the Catharijneconvent.

1. Sp env 2 b (flesh side). 2. Sp env 2 a (flesh side).

## UTRECHT FRAGMENTS IN VISIGOTHIC SCRIPT\*

*Roger E. Reynolds*

THE Rijksmuseum of the Catherijneconvent in Utrecht is renowned for its collection of religious objects and art in the Netherlands from earliest times to the present. In an outstanding exhibition of the manuscripts of the museum in 1993, two fragments written in Visigothic script were displayed. In the catalogue of the exhibition these were described as coming from printed volumes of the *Opera praeclarissima* of Alphonsus Thostatus, 1528–30, published in Venice by Petrus Liechtenstein, which came to the Rijksmuseum from the O. L. Vrouwe van de Allerheiligste en St. Dominicusparochie of Haarlem in 1955–60(?).<sup>1</sup> The script itself is said to have been written possibly in northern Spain in the twelfth century and the text to be from a version of Genesis 46:14. In fact, the text of the two fragments displayed is from Numbers 26:21–45, and the volumes from which the two fragments came contain not only the two described in the catalogue but thirty-two fragments and offsets almost all of which contain Visigothic script of the twelfth century.

Given the relatively small number of all extant items in Visigothic script—less than four hundred are listed in the standard catalogue by Millares Carlo<sup>2</sup>—and given the fact that these fragments and offsets in Utrecht were written after the late eleventh century, when writing of Visigothic script was prohibited in Spain,<sup>3</sup> they are of more than ordinary interest. Moreover, because they were used as supports for volumes published in Venice they are yet another piece of evidence for the presence in north-eastern Italy of manuscripts written in Visigothic script. It is understandable why manuscripts such as the renowned seventh-century *Oratio-nale* of Verona traveled to Italy in the eighth century as Christians in Spain fled the Iberian peninsula with their books in face of the Muslim

\* I am very grateful to Dr. W. C. M. Wüstefeld, Librarian of the Rijksmuseum, for her kindness while I examined the fragments and for permission to reproduce portions of them in this article.

<sup>1</sup> W. C. M. Wüstefeld, *Middeleeuwse Boeken van Het Catharijneconvent* (Utrecht, 1993), 22.

<sup>2</sup> See Roger E. Reynolds, "Baptismal Rite and Paschal Vigil in Transition in Medieval Spain: A New Text in Visigothic Script," *Mediaeval Studies* 55 (1993): 260 and n. 11.

<sup>3</sup> *Ibid.*, 263.

onslaught.<sup>4</sup> But it is not so clear why and when manuscripts such as the recently described late eleventh-century baptismal fragment<sup>5</sup> or the Utrecht fragments found their way to Venice.

The Utrecht fragments and offsets all come from the covers and bindings of a set of five volumes of the *Opera praeclarissima* of Thostatus. The majority are or were attached to the binding of the spines. Each spine is divided into "compartments," as they are called in Utrecht, that is, sections separated by the binding thongs (single at the top and bottom and the others double; see plate I). The fragments were pasted around these compartments and on to the covers of the volumes. Each volume has six compartments, except Vol. 4, which has five. It appears that almost all of the compartments were covered by fragments in Visigothic script, although in several cases all traces have disappeared. In one case, in Vol. 5, a fragment can be seen pasted on to the original pastedown on the cover, over which another pastedown has been placed. As will be seen, these fragments and offsets appear to have come from at least three different manuscripts or parts of a heterogeneous manuscript.

The five volumes of Thostatus now bear the shelfmarks BMH Sp p i 8, I–V, and it is from this designation that the fragments which have been given marks derive. Five fragments have been detached from Vol. 1 by the Librarian of the Rijksmuseum and placed in a small translucent envelope with the designations Sp 8 I<sup>va</sup>, 8 I<sup>vb</sup>, BMH Sp 8 I<sup>rc</sup>, Sp 8 I<sup>vd</sup>, and Sp 8 I<sup>ve</sup>, the letters <sup>a</sup>, <sup>b</sup>, c, d, and e corresponding to the compartments on Vol. 1 from which they were taken. The two fragments exhibited in 1993 were detached from Vol. 5 in May 1991 and are now kept in a second translucent envelope. The remainder of the fragments and offsets remain, as of October 1994, on or in the volumes.

For ease of citation here, the fragments and offsets will be given numbers corresponding to their place in the volumes in much the same fashion as those now detached and assigned numbers by the Librarian. Hence, for example, the offset in the second compartment of Vol. 1, that is, between the second and third binding thongs, is designated as Sp 1 b; the loose fragment in Vol. 1, Sp 1 x (x denoting extra to the compartmental fragments or offsets); and the pastedown fragment on the cover of Vol. 5, Sp 5 x.

The following table presents an overview of the fragments and offsets as they are presently attached to or appear in the five volumes. [ ] = no text

<sup>4</sup> On this manuscript, see Agustín Millares Carlo, *Tratado de Paleografía Española, I: Texto*, 3d ed. (Madrid, 1983), 342, no. 345; and Klaus Gamber, *Codices liturgici latini antiquiores* (Fribourg/S, 1968), no. 330.

<sup>5</sup> See Reynolds, "Baptismal Rite," 257–72.

visible in compartment itself. < > = fragment taken from compartment now in a translucent envelope (env 1 or env 2).

Vol. 1: BMH Sp p i 8 I	Vol. 2: BMH Sp p i 8 II	Vol. 3: BMH Sp p i 8 III	Vol. 4: BMH Sp p i 8 IV	Vol. 5: BMH Sp p i 8 V
[Sp 1 a] <Sp env 1 a>	Sp 2 a offset	[Sp 3 a]	Sp 4 a offset	[Sp 5 a]
Sp 1 b offset <Sp env 1 b>	Sp 2 b offset	Sp 3 b offset	Sp 4 b fragm.	Sp 5 b offset
[Sp 1 c] <Sp env 1 c>	Sp 2 c offset	Sp 3 c offset	Sp 4 c fragm.	Sp 5 c offset
Sp 1 d offset <Sp env 1 d>	[Sp 2 d]	Sp 3 d offset	Sp 4 d fragm.	Sp 5 d offset <Sp env 2 a>
Sp 1 e fragm. <Sp env 1 d>	Sp 2 e fragm.	Sp 3 e fragm.	[Sp 4 e]	Sp 5 e offset <Sp env 2 b>
Sp 1 f fragm.	Sp 2 f offset	[Sp 3 f]	no com- partment	[Sp 5 f]

Vol. 1. The fragments and offsets from this volume are described as follows: first, those now in the translucent envelope, and second, those still on the volume.

#### Envelope fragments:

—Sp env 1 a (labelled as Sp 8 I<sup>va</sup>): a fragment measuring 26 × 43 mm. with no writing, lines ruled with drypoint measuring 8 mm. apart.

—Sp env 1 b (labelled as 8 I<sup>vb</sup>): a fragment measuring 42 × 23 mm., with seven lines of text on the hair side visible in brown ink and five on the flesh side in orange. Lines in drypoint measure 6 mm. apart. Letter measurements: minims 2.5 mm., ascenders 5.5 mm., and descenders 5.5 mm. The texts on the two sides of the manuscript have not been identified.

—Sp env 1 c (labelled as BMH Sp 8 I<sup>rc</sup>): a fragment measuring 44 × 33 mm. There are prick marks and a drypoint rule for a marginal line from hair side to flesh side. There is no writing.

—Sp env 1 d (labelled as Sp 8 I<sup>rd</sup>): a fragment measuring 45 × 21 mm. with seven lines, 6 mm. apart, written in brown ink. Letter measurements: minims 2.5 mm., ascenders 5.5 mm., and descenders 5. The text is from Leo I, *Trac-*

*tatus septem et nonaginta* 92, ed. A. Chavasse, CCL 138A (Turnhout, 1973), 568–69, lines 15–19 (flesh side) and p. 570, lines 46–51 (hair side).

—Sp env 1 e (labelled as Sp 8 i<sup>ve</sup>): a fragment measuring 28 × 42 mm., with three lines of text barely visible on flesh and hair sides in brown ink. There is a margin of 20 mm. and 22 mm. of text. Lines are 8 mm. apart. Letter measurements: minims 3 mm., ascenders 5 mm., and descenders 4/5 mm. According to the Librarian at Utrecht, this fragment was pasted on to the full fragment (Sp 1 e) in this compartment as it was folded on to the cover of the manuscript. The texts on the two sides of the fragment have not been identified.

#### Spine fragments and offsets:

—There is no evidence of a fragment or offset in the top compartment of the spine of this volume or what would have been Sp 1 a.

—Sp 1 b: an offset measuring ca. 43 × 60 mm. Six lines of text measuring 6 mm. apart are visible in orange and black ink. Visible letter measurements: minims 2 mm. and ascenders 4 mm. The text of the visible letters has not been identified.

—There is no evidence of a fragment or offset in the third compartment of the spine of this volume or what would have been Sp 1 c.

—Sp 1 d: an offset measuring ca. 45 × 60 mm. Six lines of text measuring 6/8 mm. apart are visible in brown ink. Letter measurements: minims 2 mm., ascenders 5 mm., and descenders 5 mm. The text has not been identified.

—Sp 1 e: a partially darkened fragment measuring 123 × 36 mm., bearing signature labels I and 8. Sixteen lines of text measuring 8/9 mm. apart are visible in brown ink. There are two vertical marginal lines measuring 8 mm. apart. Ruling is from hair side to flesh side. Letter measurements: minims 3 mm., ascenders 4 mm., and descenders 4 mm. The text on both sides of the fragment, written in the same hand as that of Sp env 1 e, has not been identified.

—Sp 1 f: a partially darkened fragment measuring 40 × 122 mm. still sewed on to the spine and turned on to the covers of the volume. Seven and eight lines measuring 8 mm. apart and written in brown ink are visible on the hair side and flesh side respectively, the hair side facing out of the spine. Letter measurements: minims 2 mm., ascenders 6 mm., and descenders 5 mm. The text on the hair side is from the Venerable Bede, *In Lucae evangelium expositio* 3, ed. D. Hurst, CCL 120 (Turnhout, 1960), 208–9, lines 1672–77 (cf. Jerome, *Commentariorum in Mattheum libri IV* 3, ed. D. Hurst and M. Adriaen, CCL 77 [Turnhout, 1969], 152, lines 371–76); and on the flesh side from the same *expositio*, CCL 120:208, lines 1640–43 (cf. Venerable Bede, *In Marci evangelium expositio* 3, ed. D. Hurst, CCL 120:547, lines 207–9).

—Sp 1 x: a fragment loose in the flyleaves of the volume measuring 32 × 42 mm. Eight lines measuring 6 mm. apart are visible in brown and orange ink.

Visible letter measurements: minims 2 mm. and ascenders 4 mm. The barely visible text has not been identified.

## Vol. 2.

—Sp 2 a: an offset measuring ca. 36 × 65 mm. Four lines measuring 6 mm. apart are visible in brown and orange ink. Visible letter measurements: minims 2 mm. The text has not been identified.

—Sp 2 b: an offset measuring ca. 45 × 65 mm. Four lines measuring 7/8 mm. apart are visible in brown ink. The text is illegible.

—Sp 2 c: an offset measuring ca. 50 × 65 mm. Eight lines measuring 7 mm. apart are visible in brown ink. Letter measurements: minims 2 mm., ascenders 5 mm., and descenders 5 mm. The text is from the Venerable Bede, *In Marci evangelium expositio* 3, CCL 120:590–91, lines 1914–18.

—There was a pastedown in what would have been Sp 2 d, but it has disappeared and no writing is now visible in the compartment.

—Sp 2 e: a fragment bound to the spine measuring ca. 46 × 110 mm. and bearing the signature labels II and 8. Eight lines of text measuring 6 mm. apart are written in brown and orange ink. There is a marginal line ruled in drypoint from hair side to flesh side of a folio that was likely in two columns. Letter measurements: minims 2 mm., ascenders 5 mm., and descenders 5 mm. The text on the hair and flesh sides is from the Venerable Bede, *In Marci evangelium expositio* 3, CCL 120:590, lines 1880–89 and 1903–8.

—Sp 2 f: an offset measuring ca. 33 × 65 mm. Four or five lines in brown and orange ink are barely visible.

## Vol. 3.

—There is no evidence of a fragment or offset on what would have been Sp 3 a.

—Sp 3 b: an offset measuring ca. 35 × 54 mm. Five lines measuring 6 mm. apart are written in brown ink. Visible letter measurements: minims 2 mm. and ascenders 4 mm. The text has not been identified.

—Sp 3 c: an offset measuring ca. 48 × 50 mm. Seven lines measuring 6 mm. apart are written in brown and orange ink. Visible letter measurements: minims 2 mm. and descenders 6 mm. The text has not been identified.

—Sp 3 d: an offset measuring ca. 47 × 53 mm. Six lines measuring 7 mm. apart written in brown ink are barely visible.

—Sp 3 e: a fragment measuring 45 × 53 mm. bearing the signature label 8.3. Seven lines measuring 7 mm. apart are written in brown ink. Visible letter measurements: minims 2 mm. The text, almost illegible, has not been identified.

—There is no evidence of a fragment or offset on what would have been Sp 3 f.

## Vol. 4.

—**Sp 4 a:** an offset measuring ca.  $28 \times 50$  mm. Four lines measuring 6 mm. apart are written in brown ink. Letter measurements: minims 2 mm. The text, almost illegible, has not been identified.

—**Sp 4 b:** a fragment measuring  $120 \times 57$  mm., bearing number 118 in brown ink. The text is written in two columns with an intercolumnar margin of 16 mm. Four lines measuring 7 mm. apart are written in brown and orange ink. Letter measurements: minims 2 mm., ascenders 5 mm., and descenders 5 mm. The text on the hair side and flesh side has not been identified.

—**Sp 4 c:** a darkened fragment measuring  $53 \times 50$  mm. Nine lines measuring 6 mm. apart are written in brown ink. Letter measurements: minims 2 mm., ascenders 5 mm., and descenders 5 mm. The texts on the hair side and flesh side have not been identified.

—**Sp 4 d:** a fragment measuring  $53 \times 50$  mm., bearing the signature labels IV and 8. Five lines measuring 6 mm. apart are written in brown ink. The text would have been in the upper left hand corner of either the folio or a column inasmuch as there is a margin on the top and to the left hand side. Letter measurements: minims 2 mm., ascenders 5 mm., and descenders 5 mm. The text, largely covered by the signature labels, has not been identified.

—There is no evidence of a fragment or offset in the compartment that would have been **Sp 4 e** of this volume with only five compartments.

## Vol. 5.

## Envelope fragments without current labels:

—**Sp env 2 a.** The fragment, shown in the exhibition catalogue in the compartment **Sp 5 c** of the spine, was detached from the book in May 1991, and is, as of October 1994, kept in a translucent envelope. The fragment itself measures  $84 \times 43$  mm. Twelve lines measuring 9 mm. apart are written in a dark brown ink. Letter measurements: minims 2.5 mm., ascenders  $5/7$  mm., and descenders  $5/7$  mm. The text on the flesh side is from Numbers 26:42–45 (see plate II.2), and the text on the hair side is from Numbers 26:25–29.

—**Sp env 2 b.** The fragment has been detached from the book in May 1991 and is, as of October 1994, kept in a translucent envelope. The fragment measures  $101 \times 45$  mm. and on the hair side bears the signature labels V and 8. Nine lines of text measuring 9 mm. apart are written in dark brown ink and would have been at the top of the folio or column inasmuch as there is a blank margin above. Letter measurements: minims: 2.5 mm., ascenders  $5/7$  mm., and ascenders  $5/7$  mm. The text on the flesh side is from Numbers 26:38–42 (see plate II.1), and the text on the hair side is from Numbers 26:21–25.

Spine fragments and offsets:

—There is no evidence of a fragment or offset in the compartment that would have been Sp 5 a.

—Sp 5 b: an offset measuring ca. 40 × 50 mm. Five lines measuring 9 mm. apart are written in brown ink. There is a margin for the text. Visible letter measurements: minims 2.5 mm. and ascenders 6 mm. The text, almost illegible, has not been identified.

—Sp 5 c. On a blank paper front flyleaf in the volume there are 4 lines of an offset for this compartment. On the back paper flyleaf an offset with the number LXIII is visible. In the compartment itself is an offset measuring ca. 40 × 50 mm. Five lines measuring 9 mm. apart are written in brown ink. Letter measurements: minims 2 mm., ascenders 5 mm., and descenders 6 mm. The text in all three offsets, almost illegible, has not been identified.

—Sp 5 d. An offset of the fragment Sp env 2 a is visible on the spine of the volume. There is also an offset of this fragment on a blank paper front flyleaf.

—Sp 5 e. On a blank paper front flyleaf there is an offset of the fragment Sp env 2 b, which was originally Sp 5 e.

—There is no evidence of a fragment or offset in Visigothic script in the lowest compartment of the spine, or what would have been Sp 5 f, although a blank piece of parchment is still sewn in as a support.

—Sp 5 x: a narrow fragment measuring 72 × 5 mm. pasted on to the original pastedown of the front cover of the volume and overlaid by another later pastedown. Nine lines measuring 8 mm. apart are written in brown and orange ink. Letter measurements: minims 2 mm., ascenders 4 mm., and descenders 4 mm. Only one letter on each line is extant. The text has not been identified.

As for the writing of the fragments and offsets, the script is generally vertical and typical of Visigothic manuscripts written in northern Spain in the twelfth century. Letter forms, ligatures, and abbreviations are also typical for manuscripts of this type. In several fragments there are hyphens in words at line ends and ticks above syllables to be accented.

It appears that at least three manuscripts or three parts of a heterogeneous manuscript were used as supports for the five volumes: MS 1 would have contained the items Sp 1 d and f; Sp 2 c and e; Sp 4 b, c, and d; and Sp env 1 b, c, and d. MS 2 would have contained Sp 1 e and Sp env 1 e. MS 3 would have contained Sp 5 d and e. The offsets, with the exceptions of Sp 1 d and Sp 2 c, are not clear enough to allow them to be assigned to individual manuscripts.

The texts in the manuscripts have all been checked against the CETEDOC program of the *Corpus Christianorum* series and the Vulgate. The variety

of texts in MS 1 is puzzling in that they are from Bede's commentaries on Mark and or possibly Luke (one fragment even having a text on the flesh and hair sides from these commentaries), possibly Jerome's commentary on Matthew, and Leo I's *Tractatus septem et nonaginta*. Perhaps all of these texts were in a homily or florilegium of some type, but this is only speculation. The presence of Bede's commentaries is further confirmation of the observation of Manuel C. Díaz y Díaz that the works of Bede early travelled to Spain to be copied in Visigothic script.<sup>6</sup>

<sup>6</sup> See Manuel C. Díaz y Díaz, "La circulation des manuscrits dans la Péninsule Ibérique du VIII<sup>e</sup> au XI<sup>e</sup> siècle," *Cahiers de Civilisation Médiévale* 12 (1969): 237; reprinted in his *Vie chrétienne et culture dans l'Espagne du VII<sup>e</sup> au Xe siècles* (Aldershot, 1992), XII.

## A VISIGOTHIC-SCRIPT FOLIO OF A CAROLINGIAN COLLECTION OF CANON LAW

*Roger E. Reynolds*

THE use of Visigothic script for canon law collections seems to have been confined almost exclusively to Spanish materials: the *Collectio canonum hispana* in Burgos, Biblioteca Capitular 2 (s. XI), El Escorial, Real Biblioteca de San Lorenzo d.I.1 (994), d.I.2 (976), e.I.12 (s. X–XI), and e.I.13 (s. X–XI), Madrid, Biblioteca Nacional 1872 (s. X/XI) and 10041 (1034), Madrid, Archivo Historico Nacional, Diversos, legajo 14 + Orense, Archivo Capitular 43 (s. X), and Toledo, Biblioteca Capitular 15.17 (1095); a “pre-*Hispana*” compilation in Madrid, Real Academia de la Historia, Aemil. 44 (s. VIII/IX); the *Collectio hispana systematica* in El Escorial, Real Biblioteca de San Lorenzo 1623 (in Arabic with Visigothic notations, 1049), Lyons, Bibliothèque de la Ville 336 (with Visigothic notations, s. IX in.), and Paris, Bibliothèque Nationale lat. 11709 (with Visigothic notations, s. IX); several Spanish councils in León, Archivo de la Catedral 22 (Council of Cordoba in 839, s. IX) and Paris, Bibliothèque Nationale lat. 10876(a) + 10877(b) + Tours, Bibliothèque municipale 615 + New Haven, Yale University, Beinecke Library 481 (II Council of Seville, c. 11, s. IX/X); and Spanish penitentials in London, British Library Add. 30853 (s. X) and Madrid, Biblioteca Nacional 10008 (s. XI). Northern material is known to have come to the Iberian peninsula early and to have been copied in the script; this was the case with material such as the works of the Venerable Bede,<sup>1</sup> but it was rarely the case with canon law material. The major exceptions to this are a penitential ascribed to Pope Gregory I in Cordoba, Archivo de la Catedral n.s. (s. X), and the eleventh-century *Decretum* of Burchard of Worms in Madrid, Biblioteca Nacional Vitr. 5.5 (1105). This is in sharp contrast to the use of another great regional script, the Beneventan, which was used to copy nearly every major canon law collection from the ancient *Collectio Dionysiana* down to Gratian’s *Decretum*.<sup>2</sup>

<sup>1</sup> See “Utrecht Fragments in Visigothic Script,” pp. 316–17 and 320 above.

<sup>2</sup> See “Gratian’s *Decretum* and the *Code* of Justinian in Beneventan Script,” pp. 285–87 above.

The folio which is the subject of this note contains a text based on the ancient *Collectio Dionysiana* as modified and widely diffused in Carolingian times and called the *Collectio Dionysio-Hadriana*. Together with another fragment in Visigothic script containing Ecclesiasticus 21:20 through 22:21, it was reported by Millares Carlo in the Archives Nationales in Paris.<sup>3</sup> The canon law folio, AB XIX.1723, is found in a folder from the Departement de l'Aude, labelled in ink as "Tituli canonum Sardicensis concilii N. XXI," with further identification in pencil stating that this was the council of 347 that condemned the Arians and stating, "Le ms. donne la resumé des 17 premieres canons (il y en a eu 21)" which can be found in "Bail, Summa conciliorum omnium I 1659, p. 60 et suiv." and "Labbe et Const. Concilia II 1671, col. 627 et suiv." On the recto side of the folio itself in dark black ink is "Levoir des Censiues de Ribaute Ribaute" and on the verso side is the seal "Archives Departementales Propriété Publique (Aude)" and lists of materials in a modern hand. The folio was used at one time as a wrapper for archival material inasmuch as it is folded in half, and binding holes were made through the fold.

Measuring  $294 \times 215$  ( $271 \times 136$ ) mm., the folio is of medium to poor quality and of medium thickness. Prickmarks (holes) are made from hair to flesh side for twenty-seven lines, 10 mm. apart, for one column of text. Ruling, presumably in drypoint, has disappeared. As to script, titles, which are in Visigothic within the text, are in orange measuring  $4 \times 4$  mm. Initials and capitals, which are in the left-hand column, also in Visigothic, are in orange, measuring  $5 \times 5$  mm. The general text in Visigothic is in brown ink; minims are 2 mm., ascenders 8 mm., and descenders 6 mm. Among the characteristic letters are the *t* in both Visigothic forms, *a*, and *a* with upper tail. The *e* and *t* are frequently joined with subsequent letters. Abbreviations and Nomina Sacra are present. Abbreviations used are the tilde (used in such contractions as "episcopus" [*ēps*] or "est" [*ē*]), a line with suprascript dot (used as a final *m* in such contractions as "alteram"), a suprascript *s* (used as a *ue* in the contraction for "que," for the *on* or *om* of *con-*, and the final *-us* in a word), a suprascript backward *c* (used as the *ur* in *-tur*), and a line over a word (such as *civ̄t* for "civitate" or *ē̄* for "est"). The script is not like the tall elegant script of Escorial d.I.1 or d.I.2, written in the late tenth century in northern Spain. Millares Carlo has, in fact, dated it to the ninth century.<sup>4</sup> Since the script is the smaller, more cramped script often associated with manuscripts from southern Spain in the ninth

<sup>3</sup> The Ecclesiasticus fragment is AB XIX.1730, on which see Agustín Millares Carlo, *Tratado de Paleografía Española, I: Texto*, 3d ed. (Madrid, 1983), 338, no. 272.

<sup>4</sup> Ibid., 338, no. 271.

and tenth centuries, this is possible, but with its tall ascenders it could have been written even in the tenth century and farther north.

If the text itself is compared with the standard editions of the early councils such as those of Labbe and Mansi,<sup>5</sup> with the new edition of the *Collectio canonum hispana*,<sup>6</sup> or with the first recension of the *Collectio Dionysio-Hadriana*,<sup>7</sup> there are clear discrepancies, especially in the division and numbering of canons. Further, material mentioning the Council of Ephesus preceding the Sardican *tituli* is unusual in this position. But if one looks to an abbreviation of the Dionysian collection made most likely in the Carolingian period, the source of the text can be found. This abbreviation, called by canonistic specialists the *Breviarium ad inquaerendas sententias*, is reported in a variety of manuscripts written in the ninth century.<sup>8</sup> Why it was copied in Visigothic is not certain. Carolingian texts were infrequently written in the script in Spain itself,<sup>9</sup> but the script was used by scribes in the Carolingian Spanish March, in the south of France, and occasionally in locations such as Lyons with its concentration of Spanish emigrés.<sup>10</sup> Hence, it is possible that it was written in one of these areas by a scribe trained in Visigothic script. This possibility is further suggested by the fact that the folio came from the Archives Departementales de l'Aube. Whatever the case, the fact that such a Carolingian canon law text was written in Visigothic script is noteworthy in itself.

<sup>5</sup> P. Labbe and G. Cossart, *Sacrosancta concilia ad regiam editionem exacta* . . . 2 (Paris, 1671), cols. 627–28; J. D. Mansi, *Sacrorum conciliorum nova et amplissima collectio*, vol. 3 (Florence and Venice, 1759), cols. 6–38.

<sup>6</sup> See Gonzalo Martínez Díez and Félix Rodríguez, *La colección canónica Hispana*, vol. 3: *Concilios Griegos y Africanos*, Monumenta Hispaniae Sacra, Serie canónica 3 (Madrid, 1982), 119–34.

<sup>7</sup> Adolf Strewe, *Die Canonessammlung des Dionysius Exiguus in der ersten Redaktion*, Arbeiten zur Kirchengeschichte 16 (Berlin and Leipzig, 1931), 19–20, 61–70.

<sup>8</sup> The following manuscripts have been reported to contain the text: Barcelona, Archivo de la Corona de Aragón, Ripoll 105 (s. XIII); Berlin, Staatsbibliothek zu Berlin, Phill. 1744 (s. X); Hamburg, Staats- und Universitätsbibliothek, Cod. 26 in scrinio (s. IX in.; southern Burgundy); Paris, Bibliothèque Nationale lat. 1452 (s. IX<sup>4/4</sup> or s. IX–X; Rhône area), 3844 (s. IX ca. 2/4–med.; Loire area), 11710 (olim Sangerm. 367) (a. 805; Burgundy), and 12446 (olim Sangerm. Harl. 391) (s. IX<sup>1–2/4</sup>; perhaps central France); Vatican City, Biblioteca Apostolica Vaticana Reg. lat. 1021 (s. IX<sup>1/4</sup>; St-Amand); Vienna, Österreichische Nationalbibliothek 524 (s. IX; Salzburg) and 737 (s. IX; Salzburg); and two unidentified manuscripts once in Ripoll (catalogue of 1649, items 3 and 24).

<sup>9</sup> See Manuel C. Díaz y Díaz, “La circulation des manuscrits dans la Péninsule Ibérique du VIII<sup>e</sup> au XI<sup>e</sup> siècle,” *Cahiers de Civilisation Médiévale* 12 (1969): 232–41, 388, and items in “Note additionnelle” of the reprint in his *Vie chrétienne et culture dans l’Espagne du VII<sup>e</sup> au Xe siècles* (Aldershot, 1992), XII.

<sup>10</sup> See “Visigothic-Script Remains of a Pandect Bible and the *Collectio canonum hispana* in Lucca,” p. 310 above.

Since the *Breviarium* has never been edited, the portion found in our Visigothic folio is transcribed here. Orthography has been maintained. Words and letters in pointed brackets < > have been supplied from the text of the *Breviarium* in Paris, Bibliothèque Nationale lat. 1452, fol. 7r–v.

[recto] . . . necnon et in ephesninas [sic] cum sinodo praeful<g>ere recte et immaculate et in ipsa constitutione per dei gratiam de patre et filio et sancto spiritu plenitudin<em> docet et domini inhumanation<em> fideliter accipientibus repraesentat et ut sancta et universalis synodus alteram fidem nulli licere proferre aut conscribere aut docere aliter et si aliqui ausi fuerint componere fidem alteram episcopi aut clerici, alieni a clericatu monachi aut laici anathematixuri [sic].

TITULI CANONUM SARDICENSIS CONCILII N. XXI.

In primo capitulo de episcopis etiam laica communione privandisque [sic] civitates mutaverunt.

Et in ii. capitulo de eisdem episcopis ut si per ambitionem sedem mutaverint nec in exitu<m> communionem saltem laicam consequuntur.

Et in iii. capitulo, <ut> in<ter> discordes episcopos conprovinciales antes<ti>tes> audiant. quod si invitatus [sic] <dampnatus> appellaverit romanum pontificem ad observandum quod ipse censuerit et ut episcopus de sua provincia ad aliam <non> transeat nisi forte invitatus fuerit.

In IIII. capitulo ut nullus accusati sedem usurpet episcopi nec si proclama<veri>t sibi agendum negotium in urbe roma in eius cathedra ordinetur antequam suo iudicio fuerit terminata.

In v. vero capitulo quando quis debeat a vicinis provincie episcopos [sic] ordinari si necessitas evenierit.

In vi. capitulo de non ordinandis episcopis per vicos et modicas civitates et pro ea ratione non invitare episcopum ex alia provincia.

In vii. capitulo ergo de provinciali sinodo retractanda per vicarios idem [sic] missi episcopi urbis romae si ipse decreverit.

// verso // Et in viii. capitulo quando et in quibus causis episcopi ad comitatum <ire debeant>.

In viiii. vero capitulo de laic [sic] <diaconis> ad comitatum dirigendis cum consilio episcoporum provincialium maxime metropolitano.

Et in x. capitulo quod ad comitatum pro pupillis et viduis ac necessitatem pat<i>entibus sit eundum.

In xi. vero capitulo ut qui in canali sunt episcopi euntes ad comitatum sollicite discutiant progrediente episcopo inquirant transitum eius et videat causas agnoscat quo tendat ne propter disideria et ambitiones comitatus fiat.

Et in xii. capitulo de his qui ignorant quid sit in sinodo constitutum ne subito adhuc aliqui nescientes quid decretum sit in sinodo prevaricationem admittant.

In xiii. ergo capitulo de laicis non temere faciendis episcopis si forte dives aut scolasticus non prius ordinetur quam per singulos gradus si dignus fuerit ascendat utique prolixum tempus probari qua fide sit qua modestia et cetera et si dignus fuerit probatus divino sacerdotio inlustretur.

Et in xiiii. capitulo quamdiu episcopus in aliena civitate <re>moretur non pro ambitione nullomodo in aliena civitate moretur quia perniciosum est. Meminere debemus superiori concilio fratres nostros constituisse si quis laicus in sua civitate tres septimanas commoratur conventum non celebrasse a communione privari quantomagis episcopos nec licet nec decet.

In xv. autem capitulo ne liceat <episcopo a> sua et ta [sic] <ecclesia> plus tribus ebdomadibus abesse.

Et in xvi. capitulo de clericis a communione submotos [sic] balus [sic] non recipiendis episcopis.

In xvii. autem capitulo de excommunicatis apud vicinos episcopos audiendis forte episcopus si iracundus aut aspere cito commobetur providendum est.

AMBROGIO TRAVERSARI'S REVISION OF  
THE *CHRONICON CASINENSE* AND THE  
*DIALOGI DE MIRACULIS S. BENEDICTI*:  
THE OLDEST MANUSCRIPT REDISCOVERED

*Virginia Brown*

THE magnificent reedition (1980) by Hartmut Hoffmann of the *Chronicon casinense* was preceded by several studies in which he explored various topics relevant to his enterprise. One such investigation concerned the textual tradition of manuscripts and printed editions. Heading the list of eight known witnesses to the revision of the *Chronicon* prepared before or in 1434 by Ambrogio Traversari (1386–1439) was a manuscript once belonging to the monastery of S. Michele in Murano. Of this codex Hoffmann writes, “Die offenbar wichtigste Handschrift der Neufassung ist leider verschollen.”<sup>1</sup>

A regrettable lacuna can now be filled: the lost witness survives as Moscow, Rossiiskaia Gosudarstvennaia Biblioteka (formerly Gosudarstvennaia Publichnaia Biblioteka SSSR imeni V. I. Lenina), Fond 218, N 389 (= M), purchased in 1953 from M. V. Kantor for 4,500 rubles (according to the library accession records). The recovery of a manuscript believed to be missing is always satisfying, and in this case doubly so. Not only does M contain Traversari's revision of the *Chronicon*: it also contains his hitherto unknown revision of the *Dialogi de miraculis s. Benedicti* composed by Desiderius, abbot (1058–87) during the Golden Age of Montecassino and later Pope Victor III (1086–87). Consequently M presents us with a new specimen of Traversari's literary activity.

Additional data provided by a microfilm of M confirms P. O. Kristeller's identification of this codex as the former S. Michele in Murano MS 727.<sup>2</sup>

<sup>1</sup> H. Hoffmann, “Studien zur Chronik von Montecassino,” *Deutsches Archiv für Erforschung des Mittelalters* 29 (1973): 78. There is no mention of the Murano volume (perhaps because it had apparently vanished?) in H. Hoffmann, ed., *Chronica monasterii casinensis*, MGH SS 34 (Hanover, 1980), xxxii (list of manuscripts, with sigla).

<sup>2</sup> I should like to thank Prof. James Hankins for drawing my attention in August 1992 to the description of the Moscow manuscript in P. O. Kristeller, *Iter italicum*, vol. 5 (London-Leiden, 1990), 199b–200a, with notice of the date of acquisition. Brief notice of M, based on information supplied by Kristeller, had been given earlier by C. L. Stinger, *Humanism and the Church Fathers: Ambrogio Traversari (1386–1439) and Christian Antiquity in the Italian Renaissance*

What makes the identification certain is the presence of two notes on the inside front cover of M which are also reported in Mittarelli's description of MS 727.<sup>3</sup> They read:

(1) Iste liber est Monasterij Sancti Michaelis de Muriano / chamaldulensis ordinis. Torcelane diocesis.

(2) Quem librum Ambrosius Generalis noster camaldulensis: / ex rudi et fermé uernaculo: quo fuerat scriptus / stilo: in hunc elegantissimum quo impraesentia nitet: / diligentissime uertit:

It will be helpful now to give in their entirety the contents of M:<sup>4</sup>

(Albany, N.Y., 1977), 269 n. 168: "Professor Kristeller has kindly informed me that Traversari's revised history of Monte Cassino is also found in a ms. in Moscow, Lenin State Library, Shelf mark: Fond 218, N 389. The ms. is from S. Michele di Murano."

Mr. Oleg Bychkov kindly facilitated my request for a microfilm of M. I have not studied the codex in situ, and the arguments and conclusions presented in the following pages are based solely upon my consultation of the microfilm and codicological information supplied by Mr. Bychkov who examined M at my request.

<sup>3</sup> G. B. Mittarelli, *Bibliotheca codicum manuscriptorum monasterii s. Michaelis Venetiarum prope Murianum* (Venice, 1779), col. 43 (with classicizing orthography). Although Mittarelli attributes both notes to the hand of Bernardinus Gadolus ("... ac ut Bernardini Gadoli opinionem exponamus, quam sua manu scriptam reliquit in tabulis hujusce nostri codicis: *Iste liber est monasterii S. Michaelis de Muriano ... diligentissime vertit*," *ibid.*), they seem to me to have been added by two scribes, the first (who is earlier) using humanist minuscule and the second humanist cursive. For Bernardino Gadolo of Brescia, prior of San Michele in Murano and later prior of S. Maria degli Angeli, Florence where he died in 1499, see *ibid.*, cols. 418–23; G. B. Mittarelli and A. Costadoni, *Annales camaldulenses ordinis sancti Benedicti*, vol. 7 (Venice, 1762), pp. 354–57 and index, cols. 456–57. Kristeller, *Iter italicum*, vol. 2 (London-Leiden, 1967), 500a–b, reports that Camaldoli, Sacro Eremo 735, containing Gadolo's *De vita et obitu beati Romualdi* and letters, is an autograph. From reproductions of MS 735, pp. 30, 49, and 132, kindly supplied by don Ugo Fossa, O.S.B., Camaldoli librarian, it seems clear that the scribe of this codex did not write either of the two notes found on the inside cover of M.

<sup>4</sup> See also Mittarelli, *Bibliotheca*, cols. 42–45, 324, 656. Mittarelli does not include codicological details, and no data of this kind appears in the short, very general notice of S. V. Zhitomirskaja, "Zapadnoe srednevekov'e v rukopisiakh Gosudarstvennoi Biblioteki SSSR im. V. I. Lenina," *Srednie veka* 10 (1957): 288. I give now codicological information gleaned from microfilm and generously supplemented by Mr. Bychkov:

Parchment, rather stiff and of medium quality with follicles visible on the hair side. 198 fols. 267 × 180 (182 × 107) mm., 34 long lines. Collation: 1<sup>2</sup> (pastedown and flyleaf numbered "1") + 2<sup>10</sup>–19<sup>10</sup> + 20<sup>7</sup> (fol. 192 is a singleton). Humanist minuscule written by a single scribe. Majuscule letters in gold leaf at the beginning of texts (fols. 2r, 4v, 33r, 74v, 76v, 112v, 113r, 172r, 179r, 189r) are placed on a dark blue background and decorated with Florentine-style vinestem, the interstices infilled with olive green and pale red; smaller initials are in gold leaf against a background of dark blue or bright red. Many quaternions numbered by letters (A, B, D–Q), with the letter centered below the text in the lower margin on fols. 11v, 21v, 41v, 51v, 61v, 71v, 81v, 91v, 101v, 111v, 121v, 131v, 141v, 151v, 161v. Titles in pale red ink. Seemingly original binding with "C.M. S. XV" and "B.M. 727" on the spine.

(fol. 1r) two labels pasted down, the upper label exhibiting the present shelf mark and the lower label two entries in Russian.

(fol. 1v) blank.

(fols. 2r–171r) *Chronicon casinense* (inc. Domino et patri sanctissimo venerabilis coenobii cassinensis abbati Oderisio. . . . *expl.* neque bona sua illis imminueret).

(fol. 171v) blank.

(fols. 172r–195r) Desiderius, *Dialogi de miraculis s. Benedicti* (inc. Quia donante deo miracula. . . . *expl.* uidisse et audisse profitebatur).

(fols. 195v–196v) list of the abbots of Montecassino (ending with Angelo III Orsini, 1362–65).

(fol. 196v) annalistic entries concerning SS. Benedict, Maurus, and Placidus.

(fols. 196v–197v) various miracles of St. Benedict.

(fol. 197v) duties of the Cassinese officials concerning the repair of the monastery.<sup>5</sup>

(fol. 198r) excerpts from the *Annales casinenses* (MGH SS 19:309–13).

(fol. 198v) blank.

Before we consider the textual importance of the newly rediscovered Murano volume, let us review the humanist background which led to the production of the volume.<sup>6</sup>

The first inkling of Traversari's concern with Cassinese texts seems to be found in the postscript to a letter of 1 February 1424 addressed to his good friend Niccolò Niccoli. Traversari explains in the postscript that he has just written to Cosimo de' Medici (who was in Rome with Niccoli) and asked for his help in acquiring the *Vita s. Benedicti*, *Historia Casinatis monasterii* (= *Chronicon casinense*) and the *Dialogi* of Desiderius. Of the three texts, Traversari seems to have been especially interested in the *Chronicon*, after whose title he adds "quam diu frustra cupivimus."<sup>7</sup> The postscript ends with a plea that Niccoli do what he can to help in this matter.

<sup>5</sup> A list of the responsibilities of the same officials (*decanus, sacrista, uestararius, camerarius, infirmarius, cellararius, hospitalarius*) is also found in Montecassino, Archivio della Badia 450, p. 1a–b (Beneventan, s. XII<sup>2</sup>), where the text exhibits in some instances a slightly different wording. Presumably Traversari's copy of this witness to the *Chronicon casinense* (see p. 331 and n. 16 below) included the list on p. 1a–b which he then revised along with the *Chronicon* itself. For various published transcriptions of the text in Montecassino 450, p. 1a–b, see M. Inguanez, *Codicum casinensium manuscriptorum catalogus*, vol. 3 (Montecassino, 1940–41), 78.

<sup>6</sup> Stinger, *Humanism and the Church Fathers*, 129–30, sketches, with documentation, Traversari's interest in Benedictine monastic works. Although I have used the same sources as Stinger, my reading of the Latin texts differs slightly in some instances.

<sup>7</sup> *Ambrosii Traversarii generalis camaldulensium aliorumque ad ipsum, et ad alios de eodem Ambrosio latinae epistolae* 8.11, ed. P. Cannetus and L. Mehus, vol. 2 (Florence, 1759; rpt. Bologna, 1968), col. 375. Dates given for the letters follow F. P. Luiso, "Riordinamento dell'epistolario di A. Traversari con lettere inedite e note storico-cronologiche," *Riviste delle biblioteche e degli archivi* 8 (1897) and 10 (1899).

Traversari continued to press the matter in other letters of 1424. For example, in a letter assigned to 16 (?) March of that year, he asked Niccoli not to forget about the business of securing the *Chronicon* and the *Dialogi* of Desiderius.<sup>8</sup> When Traversari wrote to Niccoli on 25 May 1424, he noted that he was asking Cosimo for help in securing the two works so that copies could be made.<sup>9</sup> At some point Niccoli must have given a kind of progress report since Traversari writes on 21 June 1424 that he takes Niccoli's meaning about the *Dialogi* and the *Chronicon* and is hopeful that, with Niccoli's efforts on his behalf, his desire to obtain them will be satisfied.<sup>10</sup>

By the time another mention of the Cassinese texts appears in the surviving correspondence, Traversari was Superior General of the Camaldulensians. His election, which took place in 1431, signalled the beginning of an intensive three-year period of reform visitations to the various religious houses under his jurisdiction. This would entail long absences from Florence where he had resided since 1401 as a cloistered monk in the Camaldolese monastery of S. Maria degli Angeli. In May and June 1433 he was in Venice at the Camaldolese monastery of S. Michele in Murano. There Abbot Paolo Venier earned Traversari's approbation through their common interest in letters and desire to restore the strict observance of the Benedictine Rule.<sup>11</sup> In light of such mutual concerns, it is not surprising that Venier too might be interested in Montecassino: the abbey was, after all, founded by St. Benedict and occupied a special place among Benedictine houses since it was also the site of the saint's tomb.<sup>12</sup> Logically enough, this interest resulted in Venier's asking for a copy of the same Cassinese works sought by his Superior General, as we can deduce from Traversari's letter written 19 June 1433 at S. Michele in Murano to his brother Girolamo Traversari (†7 October 1433), a monk at S. Maria degli

<sup>8</sup> *Traversarii . . . epistolae* 8.10 (col. 373).

<sup>9</sup> *Ibid.* 8.8 (cols. 367–68).

<sup>10</sup> *Ibid.* 8.9 (col. 371): "Quid de Dialogo Desiderii, quid item de Casinatis Coenobii Historia censeas video; proboque industriam tuam, per quam fore non ambigo, ut voti nostri tandem simus compotes."

<sup>11</sup> Stinger, *Humanism and the Church Fathers*, 41. On Venier, see G. B. Mittarelli and A. Costadoni, *Annales camaldulenses ordinis sancti Benedicti*, vol. 6 (Venice, 1761), index, cols. 865–66, and, especially for Venier's activity as a reformer, I. Tassi, *Ludovico Barbo (1381–1443)* (Rome, 1952), index, p. 179. For Venier's success in reforming S. Michele in Murano, see *Traversarii . . . epistolae* 19.4, letter of 15 September 1432 to Venier (cols. 854–55) in which Traversari praises the *egregia disciplina* found at S. Michele.

<sup>12</sup> For a balanced, judicious account of the medieval Cassinese tradition, see P. Meyvaert, "Peter the Deacon and the Tomb of Saint Benedict," *Revue bénédictine* 65 (1955): 3–70, reprinted in P. Meyvaert, *Benedict, Gregory, Bede and Others* (London, 1977), no. I.

Angeli, Florence: "Cupit Abbas hic noster [= Venier] historiam Casinensis Cenobii, & Dialogum Desiderii transcribi sibi, pecuniam exsponere paratus. Sed de hoc alias."<sup>13</sup>

Several months later it is clear that Ambrogio Traversari had definitely attained his goal. In a letter of 21 November 1433 addressed to Agostino, a monk at S. Maria degli Angeli, Traversari urges the completion of a number of volumes, including the manuscript destined for Venier which was to be copied by "Nicolaus adolescens."<sup>14</sup>

Exactly when and how Traversari succeeded in acquiring a copy of the long desired *Chronicon* and *Dialogi* is not clear. We do not know that Traversari ever went to Montecassino. Hence it seems unlikely that he would have had direct access to the Beneventan witnesses copied there and presumably conserved there at least until the third quarter of the fifteenth century when they are listed in the inventory of the Montecassino library compiled in the pontificate (1465–71) of Paul II, who was also commendatory abbot of the monastery.<sup>15</sup> Nor do we know when Traversari found time for textual revision in the midst of his busy term as Superior General of the Camaldulensians. What can be stated is this: sometime between 21 June 1424 and 21 November 1433 Traversari acquired a copy of the *Chronicon* and *Dialogi*;<sup>16</sup> during this period he made stylistic revisions in both works, none of them so drastic (see pp. 335–38 below) that they could not be entered in the margins or interlinearly; hence M may have been copied directly from Traversari's own working text and would be at best, then, a third-generation descendant of the Beneventan archetype.

Venier's codex was ready in 1434. Traversari was visiting the monastery of S. Pietro in Bosco (Romagna) when he addressed a short letter to Venier on 15 March 1434 expressly for this purpose: "Our brothers will send you the *Chronicon* of Montecassino and the *Dialogi* of Desiderius . . . and will inform you of scribal and parchment costs, as well as any other

<sup>13</sup> *Traversarii . . . epistolae* 11.75 (col. 566).

<sup>14</sup> Ibid. 12.13 (col. 583): "Michaëlem ex nobis admone, ut Chrysostomi vitam, quam dudum exactam significavit, emendare contendat, & Nicolao illi adolescenti scribendam tribuat Chronicon Coenobii Casinensis, & Desiderii Dialogum pro Ven. Patre Abbate Monasterii sancti Michaelis de Muriano; sicuti illi & coram, & per literas iniunxi."

<sup>15</sup> *Bibliotheca casinensis*, vol. 1 (Monte Cassino, 1873), lxxxvii ("Dialogus Desiderii de miraculis sancti Benedicti") and lxxxviii ("Cronica magna per quatuor libros").

<sup>16</sup> Stinger, *Humanism and the Church Fathers*, 129 and 269 n. 166, offers the suggestion of R. Sabbadini (*Le scoperte dei codici latini e greci ne' secoli XIV e XV*, 2 vols. [Florence, 1905–14; rpt. 1967], 1:88–89) that Traversari may have acquired his copy in 1429 "when Poggio went to Montecassino, where he acquired a manuscript of Frontinus which he later sent to Florence" (Stinger, 129).

expense, since they know these things better than I do. Please take care of the payment."<sup>17</sup> The *fratres* in question were apparently monks at S. Maria degli Angeli who used local resources since the script and vinestem decoration of M are typical of Florentine books of the 1420s and 1430s.

It is tempting to speculate that, given the monastic/Benedictine contents and intended recipient, the manuscript may have been produced at S. Maria degli Angeli itself. This hypothesis is not implausible since some kind of monastic/Benedictine association in the form of explicit provenance or origin can also be observed in the case of six of the remaining seven witnesses to the *Chronicon*.<sup>18</sup> Before further light can definitely be shed on the origin of M, we need more information about the "Nicolaus adolescens" entrusted by Traversari with the copying of Venier's manuscript and more identifications of manuscripts produced at S. Maria degli Angeli during Traversari's lifetime which are *not* de luxe liturgical books.<sup>19</sup>

M's later history is also shadowy. The manuscript of the *Chronicon* and *Dialogi* destined for Venier was duly forwarded to Venice. There it remained as MS 727 until 1810 when the library of S. Michele in Murano was

<sup>17</sup> *Traversarii . . . epistolae* 19.21 (col. 876): "Chronicam Casinensis Monasterii, & Desiderii Dialogum mittent ad te fratres nostri, pulchrum sane opus, & volumen. Pretium scripturae, ac membranarum, & totius operis ipsi scribebunt, quia revera melius id norunt, quam nos. Eis id persolvendum curabit pia dignatio tua."

<sup>18</sup> Such information is conveniently furnished by Hoffmann, "Studien," 79–84, 162: Berlin, Staatsbibliothek Preussischer Kulturbesitz Lat. oct. 200, fols. 65–67, s. xv ex.; provenance: S. Vitale, Ravenna.

Florence, Biblioteca Medicea-Laurenziana Ashb. 974, s. xv; provenance: Monte Oliveto Maggiore, near Siena.

Florence, Biblioteca Nazionale, Conv. soppr. E.1.593, copied in 1510; provenance: S. Benedetto fuori le Mura (Camaldolese), Florence.

Florence, Biblioteca Nazionale, Conv. soppr. B.4.2676, copied s. xv<sup>2</sup> by "Heustachius"; provenance: S. Maria (Badia), Florence.

Mantua, Biblioteca Comunale 327 (C III 7), s. xv; provenance: S. Benedetto in Polirone.

Vatican City, Biblioteca Apostolica Vaticana Chigi I VII 258, copied in 1466 by "Iohannes" *iussu* "Mariotti de Aretio generalis Camaldulensis" (= Mariotto Allegri); provenance: library of Pope Pius III.

<sup>19</sup> Study of manuscript production at S. Maria degli Angeli has tended to focus, naturally enough because of the abundant material and readier means of identification, on large, elaborately decorated choir books and autograph manuscripts of Traversari. See, for example, M. Levi D'Ancona, *The Choir Books of Santa Maria degli Angeli in Florence*, vol. 2: *The Reconstructed 'Diurno Domenicale' from Santa Maria degli Angeli* (Florence, 1993), with further bibliography, and vol. 1: *The Illuminators and Illuminations of the Choir Books from Santa Maria degli Angeli and Santa Maria Nuova and Their Documents* (Florence, 1994); G. Pomaro, "Fila traversariane: I codici di Lattanzio," in *Ambrogio Traversari nel VI centenario della nascita. Convegno Internazionale di Studi (Camaldoli - Firenze, 15–18 settembre 1986)*, ed. G. C. Garfagnini (Florence, 1988), 235–85, with further bibliography, and 5 plates. For the holdings of the library at S. Maria degli Angeli, see S. Baldelli Cherubini, "I manoscritti della biblioteca fiorentina di S. Maria degli Angeli attraverso i suoi inventari," *La bibliofilia* 74 (1972): 9–47.

dispersed, with a portion of the books, including MS 727 and others pertaining to the history of the Benedictine Order, transferred to the Benedictine monastery of S. Gregorio Magno, Rome.<sup>20</sup> Why M was not taken to the Biblioteca Nazionale, Rome, when another decree of suppression was passed in 1873<sup>21</sup> and how it came instead to leave Italy is not known.

Hoffmann's assessment of M as seemingly the most important witness to Traversari's reworking of the *Chronicon* must be based in large part on the fact that M is probably the oldest witness. The stemma to his edition shows that Traversari revised a copy of Montecassino, Archivio della Badia 450, Beneventan, s. XII, whose text exhibits a few additions and changes made by Peter the Deacon.<sup>22</sup> Hoffmann relies on Traversari only once: Montecassino 450 lacks the folio containing *Chronicon* 3.48 *praeterea de hoc—50 sedibus suis pellerentur*, and so Traversari's revision is used to fill the lacuna. Except for minor orthographical differences, M's readings for this passage on fol. 101r8–v12 agree with the text in Hoffmann's edition in all but a single instance (the omission of *ergo* in 3.49). For the sake of completeness, I list according to page and line number in Hoffmann all the variants in M, including those of spelling:

<i>Chronicon</i> 3.48, 426.33 hystoriam] historiam M		427.2 Theatino] teatino M
<i>Chronicon</i> 3.49, 427.5 millesimo septuagesimo nono] M.LXXXVIII M		
6 letali] laetali M	Gothfridum] gotfridum M	7 sagicta] sagitta M
428.3 ergo om. M	6 Ytaliā] italiā M	7 Maltidae] maltide M
429.2 Matildae] maltide M	4 Ytalia] italia M	10 Traciam] thraciam M.

Although Hoffmann did not explore the nature and extent of Traversari's revisions to the *Chronicon*, these humanist interventions have not passed unnoticed.<sup>23</sup> Traversari's activity, however, on behalf of the *Dialogi* has received little, if any, scrutiny. Hence a consideration of M's text of the

<sup>20</sup> E. Mioni, "I manoscritti greci di S. Michele di Murano," *Italia medioevale e umanistica* 1 (1958): 321–22. Ludwig Bethmann (†1868) saw M at S. Gregorio Magno in 1854; see "Dr. Ludwig Bethmann's Nachrichten über die von ihm für die *Monumenta Germaniae historica* benutzten Sammlungen von Handschriften und Urkunden Italiens, aus dem Jahre 1854," *Archiv der Gesellschaft für ältere deutsche Geschichtskunde* 12 (1858–74): 400–401.

<sup>21</sup> Mioni, "I manoscritti greci," 326–27.

<sup>22</sup> Hoffmann, ed., *Chronica*, xxxii–xxxiii.

<sup>23</sup> For example, Mittarelli's summary of the position taken by Erasmo Gattola (1660–1734), the great historian of Montecassino, is interesting: "Erasmus Gattola Abbas doctissimus Casinensis in suae Historiae Abbatiae Casinensis Tomo I. pag. 879. Ambrosium [Traversarium] insugillat, & accusat tamquam correctorem vel potius interpolatorem textus Leonis Ostiensis, et miratur virum, ceteroquin eruditissimum & egregium, hoc attentasse" (Mittarelli, *Bibliotheca*, col. 43).

*Dialogi* is presented below; it is intended to illustrate Traversari's approach to the problem of turning a medieval Latin text into something more polished and acceptable to humanist taste and standards.

By way of prelude, it should be noted that the issue of Traversari's alterations is of some interest simply because there are so few manuscripts of the *Dialogi* presently known. Schwartz and Hofmeister have produced the only modern edition, basing their text on a careful transcription of Vatican City, Biblioteca Apostolica Vaticana Vat. lat. 1203, Beneventan, s. xi ex. (i.e., copied during the abbacy of Desiderius).<sup>24</sup> They list three other witnesses: the lost Murano codex (M); Milan, Biblioteca Ambrosiana D 110 inf., s. xvii (= A); Rome, Biblioteca Casanatense 2114 (olim Rome, Convento di Santa Maria sopra Minerva XX 1 28), fols. 24r–57v, s. xvii (book 1 complete, book 2 with lacunae, book 3 missing) (= C).<sup>25</sup> M becomes, then, still more interesting because, after Vat. lat. 1203, it is the oldest representative and also the sole manuscript to contain both the *Chronicon* and the *Dialogi*. Moreover, since A and C are copies of Vat. lat. 1203, M is presently the unique witness to Traversari's revision of the *Dialogi*.

<sup>24</sup> G. Schwartz and A. Hofmeister, eds., *Dialogi de miraculis sancti Benedicti auctore Desiderio abbate casinensi*, MGH SS 30.2, fasc. 2 (Leipzig, 1929), 1115. It is admittedly pedantic to observe that I have noticed the following discrepancies between Vat. lat. 1203 and the MGH edition where the former offers the correct reading:

*Dial.* 2.14 frendens (Vat. lat. 1203, fol. 40va19) : fremens (MGH, 1134.17)

*Dial.* 2.18 credimus fuisse (Vat. lat. 1203, fol. 46vb5–6) : fuisse credimus (MGH, 1136.35)  
altare (Vat. lat. 1203, fol. 47rb13) : a latere (MGH, 1136.46)

*Dial.* 2.25 Ea (Vat. lat. 1203, fol. 55rb19) : Et (MGH, 1140.24).

For more recent studies in which Vat. lat. 1203 appears, see E. A. Loew, *The Beneventan Script: A History of the South Italian Minuscule*, 2d edition prepared and enlarged by V. Brown, 2 vols. (Rome, 1980), 2:145, with bibliography; H. Bloch, *Monte Cassino in the Middle Ages*, 3 vols. (Rome, 1986), 1:74, 76, 80–81, and vol. 3, figs. 45–46 (details of fols. 3r, 24v), 47 (fol. 1r); further bibliography in *Bibliografia dei manoscritti in scrittura beneventana*, vols. 1–4 (Rome, 1993–96), siglum “VLA 1203.”

<sup>25</sup> I have consulted Ambrosiana D 110 inf. on microfilm (obtained from The Medieval Institute, University of Notre Dame) and Casanatense 2114 in situ. Schwartz and Hofmeister examined reproductions of the first and last folios in Ambrosiana D 110 inf. (*Dialogi*, preface, 1116) and had access to notes on Casanatense 2114 assembled in 1884 by O. Holder-Egger (ibid., 1116 n. 4). On Casanatense 2114, see also “Dr. Ludwig Bethmann's Nachrichten,” 407 (“Minerva, XX. I. 28. Desiderii mir. s. Bened.; ei. chron. pontiff.; Petrus diac. de viris ill. Cas., copirt aus cod. Vatic. 1203”); and O. Holder-Egger, “Reise nach Italien 1884,” *Neues Archiv der Gesellschaft für ältere deutsche Geschichtskunde* 10 (1885): 226 (“Die Minerva bot dieses Mal wenig für unsere Zwecke. Ich . . . untersuchte dann noch eine moderne unvollständige Handschrift der Dialogi des Desiderius”). The miscellaneous historical and hagiographical contents of Casanatense 2114 suggest some kind of association with a manuscript (or manuscripts) formerly at S. Giorgio Maggiore, Venice, listed in M. Gerbertus, *Iter alemannicum, accedit italicum et gallicum* (St. Blasien, 1765), 454–55.

From my collation of M against the text of Vat. lat. 1203 there emerge, apart from the usual variations in medieval and humanist orthography, a fairly large number of alterations significant enough to point to "Traversari at work." These indications of Traversari's activity are given below according to chapter, page, and line number in the edition of Schwartz and Hofmeister, with an asterisk (\*) preceding readings which could be merely scribal slips.<sup>26</sup> I have checked the readings of A and C for the same passages. Instances where MAC (*Dial.* 1.2) or MA (1.8, 2.2, 3.5) or MC (1.4, 11; 2.24) agree are so few and insignificant that they are likely to be the result of independent scribal emendation.

- Dial.* 1, prol., 1117.19 hoc om. M      28 a] ab M  
*Dial.* 1.1, 1118.6 fluuium<sup>1</sup> om. M      17 omnipotens om. M      19 suis om. M  
*Dial.* 1.2, 1118.24 late om. M      27 ac] et MAC      31 iugularent] trucidarent M      40 ac] atque M      1119.4 uadumue] uadumque M      14 expoliasse] spoliasse M      23 discipulis promiserat] promiserat discipulis M  
*Dial.* 1.3, 1119.37 quantaque] quantae M  
*Dial.* 1.4, 1120.26 cum] tum MC  
*Dial.* 1.6, 1121.4 referre] narrare M      7 fuisset] esset M      14 in terram om. M      16 feruens om. M      27 omni nisu] omni an nisu M      32 appetunt] desiderant M  
*Dial.* 1.7, 1122.1 illius om. M  
*Dial.* 1.8, 1122.12 torporis] corporis M      16 semel om. M      22 ille] illa M      28 frustum] frustrum MA      29 clamorem uocis] uocem clamoris M  
*Dial.* 1.9, 1123.18 a se om. M  
*Dial.* 1.10, 1124.10 antequam dies illucesceret] priusquam illucesceret M      13 ambulare] ire M      15 nocte] tenebris M  
*Dial.* 1.11, 1124.21 \*tempore om. M      32 uenire] peruenire MC  
*Dial.* 1.12, 1124.33 \*ingressi om. M      34 lardumque] laridumque M      42 cellararius] cellarius *rectius* M      1125.17 pietas] clementia M  
*Dial.* 1.13, 1125.24 debeat] ualeat M      26 suis cum pueris] cum suis pueris M      32 Uni] Vno M      1126.13 quos] quod M      20 eius] ipsius M      23 pensandum] dispensandum M (*sed dis fort. del. ?*)      38 dire] dure M      42 interpretatori] interpreti M      49 dixit] ait M

<sup>26</sup> It was suggested on p. 331 above that Traversari did not have direct access to manuscripts in Beneventan containing the *Chronicon* and *Dialogi*. If this is correct, then M descends from the copy which Traversari received via Cosimo and Niccoli. The intermediate stage(s) in the textual transmission would afford opportunity for scribal error of various kinds. Some nonsensical readings in M are evidently owing to the rubricator's misunderstanding or a lapse on the part of the scribe involving useless repetition or omission, namely, *Dial.* 1.2, 1119.2 crebra] creba M; 1.9, 1123.1 Pandulfus] Aandulfus M; 2.5, 1129.38 profecto uita] profecta M; 2.10, 1131.36 De] Ae M; 2.22, 1138.37 Dum] Aum M; 1139.22 capti bis M; 3.2, 1144.20 fuerat] fuera *ut uid. M*.

- Dial.* 2, prol., 1127.9 \*diuina om. *M*  
*Dial.* 2.1, 1127.12 ciuitate] urbe *M*  
*Dial.* 2.2, 1128.8 \*Iohannes om. *M* 17 decebat] dicebat *MA* (dece- *A*  
*post corr.*) 21 quem] quos *M*  
*Dial.* 2.3, 1129.6 fuerit] fuisset *M* 10 patratum] paratum *M* 13  
terra] terram *M* 14 surrexit] resurrexit *M*  
*Dial.* 2.5, 1129.38 \*monachus om. *M* 39 tactus] tentus *M* 42 nunc  
om. *M* 45-46 festinanter ad domum infirmorum pergunt] ad infirmorum  
domum festinanter pergunt *M* 1130.6 creatori] auctori *M* 8 omnibus  
modis contrarius existat] semper existat inimicus *M*  
*Dial.* 2.6, 1130.15 multos in dei seruitio explesset annos] in dei seruitio  
multos explesset annos *M* 18 lectum] lectulum *M* 21 respiciens]  
conspiciens *M*  
*Dial.* 2.7, 1130.36 religiosissima] religiosa *M* 1131.3 degentibus]  
quiescentibus *M*  
*Dial.* 2.9, 1131.20 qui secularibus] qui a secularibus *M* 1131.21 haud]  
non *M*  
*Dial.* 2.10, 1131.39 uidelicet] scilicet *M* 1132.12 agnosceret] cog-  
nosceret *M*  
*Dial.* 2.11, 1132.26 sita] \*sitam (-a- *corr. ex -u-?*) *M* 27 eaque quae] ea  
quae *M* 30 agnosceret] recognosceret *M*  
*Dial.* 2.12, 1133.5 alit teneras mentes] teneras alit mentes *M* 10 pau-  
latim stipulam] stipulam paulatim *M* 20 penitus om. *M* 25 religiose  
ac pie] pie ac religiose *M*  
*Dial.* 2.13, 1133.34 frangebat] cedebat *M* 43 praedicto] dicto *M*  
1134.1-2 manubrio adhaesit] manubrio in aequora mittunt. inhesit *M*  
*Dial.* 2.14, 1134.19 sibi] ei *M* 22 in specie sibi] ei in specie *M* 29  
quo] in quo *M* 34 id (ad *A*) esse ita professus] ita esse confessus *M*  
42 abunde in suo monasterio] in suo monasterio abunde *M* 43 est  
oratum] oratum est *M*  
*Dial.* 2.15, 1135.2 ad eum accedere] accedere ad eum *M*  
*Dial.* 2.17, 1135.11 uitam ducens] ducens uitam *M* 15 infirmus ita ut  
uenerat] ita ut uenerat infirmus *M* 19 eumque] eique *M* 36 con-  
sistit] constitit *M*  
*Dial.* 2.18, 1137.2 referentis] referens *M* 13 a deo om. *M*  
*Dial.* 2.19, 1137.29 quia] quae *M* 30 ea] eam *M* : eo *A* 35 fundi-  
tus om. *M* 43 dominicum om. *M* 45 manu sollicitudinis suae] manus  
suae solitudine *M*  
*Dial.* 2.20, 1137.48 decantaturi] \*decantari *M* 1138.7 assumpsit] ab-  
sumpsit *M*  
*Dial.* 2.21, 1138.16 quadam] quodam *M* 17 accendisset] accenderet *M*  
21 uncinulis] uinculis *M* 22 materie] \*materiae *M* 33 in<sup>2</sup> om. *M*  
*Dial.* 2.22, app. ad 1138.46 enim] quamdiu *M* 1139.4 nobis om. *M*  
12 cuiusdam om. *M* 14 eius bona] bona eius *M*

*Dial.* 2.23, 1139.36–37 tota cordis humilitate] totius cordis humilita *M*  
 41 eum optime] optime eum *M* 1140.1 oboedientiam] oboediendum *M*  
 2 aliquanti] aliquantum *M*

*Dial.* 2.24, 1140.15 facere coepimus] coepimus facere *MC* ipsi *om.* *M*  
 16 silentio *om.* *M*

*Dial.* 2.25, 1140.29 faciendum *om.* *M* 31 obstupefactus] stupefactus *M*

*Dial.* 3, prol., 1141.9 Dum] Cum *M* 10 labefactaretur] \*-teretur *M*  
 adoleuit] inoleuit *M* 23 pontificum cathedram] cathedram pontificum *M*  
 30–31 eius nequitiam amplius] amplius eius nequitiam *M* 1142.8 se a  
 clero] se et a clero *M* 13 cessit] recessit *M* 15 romani *om.* *M* 22  
 apostolicam sedem] sedem apostolicam *M* 23 unus] \*unius *M* 25  
 exoratus] \*exoratis *M* : exorat *A* 26 quo] quod *M* : qua *A* 27 ac] et  
*M* 1143.23 populis *om.* *M*

*Dial.* 3.1, 1143.29 culmen apostolicum] apostolicum culmen *M* 31  
 oculisque] coramque *M* 35 aureis argenteisque] aureisque argenteisque  
*M* 1144.1 ei *om.* *M* 2 qua nescio neglegentia tenentis de manu] ne-  
 scio qua neglegentia de manu tenentis *M* 5 fuisset] esset *M* 8 omni-  
 potentem] \*-tentum *M* 13 id] hoc *M*

*Dial.* 3.2, 1144.21 Gibbertus] Gilbertus *M* 27 sibi *om.* *M*

*Dial.* 3.3, 1145.1 Dum] Cum *M* 2 luce *om.* *M* 13 minime cre-  
 dere] credere minime *M* 29 hac in ecclesia] in hac ecclesia *M* 32  
 recepta] reparata *M* 33 illa] illo *M* 37 suffragantibus] -grantibus *M*

*Dial.* 3.4, 1146.20 caput mundi] mundi caput *M* 23 populo] a populo  
*M* 26 statutum] praeceptum *M* 1147.17 per quem unus e nostris  
 ingrediatur *om.* *M* 23 etiam adhuc] adhuc etiam *M* 39 extrahens]  
 abstrahens *M* 42 sub sanctae conuersationis regula] sub sanctae con-  
 uersationis habitu regula *M*

*Dial.* 3.5, 1148.13 cum] tum *MA* ipsius *om.* *M* 17 iam diei  
 spatium] diei spacium iam *M* 22 nobis ueritatem] ueritatem nobis  
*M* pertinaciter negare] negare pertinaciter *M* 28 uirtute] \*-tem *M*

*Dial.* 3.6, 1149.14 sub radice] sub radices *M*

*Dial.* 3.8, 1149.28 eis apponere] apponere eis *M* 30–31 <E>rant illi  
 utique] Erant autem illi *M*

*Dial.* 3.10, 1150.14 <H>aec eadem autem] Haec autem eadem *M* 20  
 quae] quod *M* 23–24 aliquantulum inde potero] aliquid potero *M*.

We now have the evidence to assess the character of Traversari's revisions to the text of the *Dialogi*. His changes are not sweeping: they consist principally of transpositions (in accord with more classical usage), substitutions of synonyms (especially when monastic life is involved), clarifications (by means of relative pronouns), and omissions (usually of single words). The list just given serves as structural underpinning for the accuracy of Mittarelli's general observation on Traversari's role vis-à-vis these texts:

"... Chronicon Ostiensis (historiam scilicet Casinatis Coenobii) & Desiderii Dialogum exscripsit, mutato in multis stylo, aliquibus demptis, aliis additis, transpositoque verborum ordine, sed sensu et textu integre servato."<sup>27</sup> Can we agree with the opinion expressed in the entry transcribed on p. 328 above that Traversari did indeed impart a certain elegance to what had been formerly a rough and ready text (*ex rudi et ferme uernaculo*)? A later historian of Montecassino did not think so, at least with regard to Traversari's work on the text of the *Chronicon*.<sup>28</sup>

One final point is of interest in connection with Traversari and the *Dialogi*. By 1422, at Traversari's instigation (according to his own account), the relics of SS. Protus, Hyacinth, and Nemesis had been brought from a derelict convent in Tuscany to S. Maria degli Angeli; they were placed in a reliquary made by Lorenzo Ghiberti and completed probably in 1428.<sup>29</sup> Sometime after 1431 Traversari's revision of the lives of SS. Protus and Hyacinth (B.H.L. 2666 m) was appended to his translation of the *Vitae patrum*.<sup>30</sup> It has been hard for scholars to explain Traversari's concern with the saints at this point given the passage of at least nine years since the translation of their relics.

We know that by 21 November 1433 Traversari surely had a copy of the *Dialogi*.<sup>31</sup> It is likely that he acquired the text somewhat sooner since he would have needed time to revise it in the midst of a busy schedule before the work was recopied and sent in 1434 to Paolo Venier, abbot of S. Michele in Murano. Let us close, then, with the suggestion that Traversari's interest in SS. Protus and Hyacinthus may have been rekindled when he read in *Dial.* 2.25 of the visit of these saints on their feast day (11 September) to the *fratres* of (presumably) the monastery of S. Paolo fuori le Mura, Rome. Certainly he was aware of this account since he emended the text in two places. If Traversari had a copy of the *Dialogi* in 1432, his arrival at S. Maria degli Angeli on 10 September of that year to celebrate next day with his confreres the same feast<sup>32</sup> must have seemed, for a number of reasons, even more appropriate.

<sup>27</sup> Mittarelli, *Bibliotheca*, col. 43.

<sup>28</sup> Ibid., cols. 43–44 (reporting the opinion of Gattola).

<sup>29</sup> R. Krautheimer with T. Krautheimer-Hess, *Lorenzo Ghiberti* (Princeton, 1956), 138–39 (with references to Traversari's letters and other sources).

<sup>30</sup> E. Mioni, "Le 'Vitae Patrum' nella traduzione di Ambrogio Traversari," *Aevum* 24 (1950): 323 ff.

<sup>31</sup> See p. 331 and n. 16 above.

<sup>32</sup> A. Dini-Traversari, *Ambrogio Traversari e i suoi tempi. Albero genealogico Traversari ricostruito. Hodoeporicon* (Florence, 1912), 39 (*Hodoeporicon*, paginated separately).

# A REMARKABLE ACCOUNT OF THE ORIGIN AND SPREAD OF ISLAM CONTAINED IN A FIFTEENTH-CENTURY REDACTION OF THE GREGORIAN REPORT

*Maurits Vandecasteele*

## I. INTRODUCTION

THE name "Gregorian Report" was originally given to an important piece of information on Islam entered in Matthew Paris' *Chronica majora* under the year 1236.<sup>1</sup> Recently, we demonstrated that this text had already been incorporated, some fifty years earlier, into Godfrey of Viterbo's *Pantheon*, a universal chronicle, and we provided its first critical edition.<sup>2</sup> Among the nine manuscripts used to this end, covering nearly three centuries of transcription, one appeared to be of special interest. The manuscript in question is preserved as MS F 93 in the Sächsische Landesbibliothek in Dresden, dates back to the fifteenth century, and comprises, among other writings, Godfrey of Viterbo's works.<sup>3</sup> The copy of the Gregorian Report found in that manuscript is unique in that it contains a chapter absent in all other redactions and which has hitherto remained unknown. This text, entitled *Item de Machometo quomodo nutrit puerum et cervum*, enlarges Part II of the Gregorian Report, a part we have previously shown to be a translation of excerpts from a Christian-Arabic refutation of Islam.<sup>4</sup> Although both the Arabic original and the Latin version give a good chronological survey of the life and times of Muḥammad, the chapter was inserted between sections II 10 and II 11,

<sup>1</sup> N. Daniel, *Islam and the West: The Making of an Image* (Edinburgh, 1960), 11–12, and rev. ed. (Oxford, 1993), 29–30 (hereafter references are to the revised edition).

<sup>2</sup> M. Vandecasteele, "Étude comparative de deux versions latines médiévales d'une apologie arabo-chrétienne: Pierre le Vénérable et le Rapport Grégorien," *Mededelingen van de Koninklijke Academie voor Wetenschappen, Letteren en Schone Kunsten van België (Academiae Analecta, Klasse der Letteren)* 53 (1991): 79–134.

<sup>3</sup> For a brief description, see F. Schnorr von Carolsfeld, *Katalog der Handschriften der Königl. Öffentlichen Bibliothek zu Dresden*, vol. 1 (Leipzig, 1882), 385.

<sup>4</sup> Vandecasteele, "Étude comparative," 85.

which narrate the prophet's troubles with two particular women.<sup>5</sup> The reason why well-linked pieces of argumentation were interrupted by data foreign to the chronological order of events is not clear at all. It may be assumed that the person who decided to give the story a place in the Gregorian Report, acted arbitrarily: its content is highly heterogeneous, and even the title does not reflect the tenor.

## II. THE ACCOUNT

The prophet Muḥammad is secretly dwelling in a remote cave, where he is nurturing a handsome boy and educating him with the teachings of a number of scholars from different communities and religions. The two share company with a male deer, which has been taught to "kiss" the boy's hands and feet at each meeting. After some time, Muḥammad starts proclaiming that God has regarded Christian law as being too severe and that he will soon send his messenger to give mankind a much easier law. One day, having gathered a great number of people from all parts of the country, the prophet announces the presence among them of the expected messenger. The animal appears, bearing between its horns a chain of gold with the inscription, "He before whom the deer prostrates itself is the one." As soon as the stag perceives the boy, it prostrates itself before him. Suddenly all the people fall down at the feet of the boy, who addresses them. He recalls the beginning of time and Mosaic law, when polygamy was the practice; he also reminds them of the days when monogamy was introduced. In addition, he tells the audience that God, fearing that mankind would dwindle, has recognized the Christian law of monogamy as a burden. So God has decided to satisfy man's needs and to ease his existence, as he had previously done with the Jews in the desert; consequently, the law must be broadened again and polygamy reinstated. Thus Muḥammad, ultimately supported by the boy's angelical voice, has shown himself to be a great prophet. Subsequently, he becomes a wealthy man who employs all possible means to attract people.

## III. DISCUSSION

### *Originality of the account*

Within the tradition of Western medieval literature on Islam, the story found in the Dresden manuscript (hereafter Dresden Insert or DI) is

<sup>5</sup> Ibid., 86 and 117.

unique. Its originality mainly lies in the attempt to explain the origin and spread of Islam through polygamy, for which biblical evidence is provided. Although the scenery in which the events are placed is not uncommon, the story also appears to be novel by its introduction of a boy and a deer as protagonists. Furthermore, the DI features an element not found so far in related and/or parallel accounts, viz., the chain of gold as proof of credibility.

*Setting and human protagonists: background*

The choice of the setting as well as that of the two human protagonists is undoubtedly inspired by the so-called Baḥīrā legend, introduced in the West through the writings of John of Damascus (†749) and widely dispersed in a variety of versions.<sup>6</sup> The original setting of the legend is a place in the desert occupied by a hermit called Baḥīrā. During a mercantile expedition, the young Muḥammad and his uncle meet the hermit, who shows great interest in the boy and finally recognizes him as the future prophet. When the protagonists' roles in the Baḥīrā legend are partly switched—the hermit becoming Muḥammad, and Muḥammad remaining an exceptional but now anonymous boy—the framework has been forged within which a skilled compiler can develop a new story.

In a number of alternative redactions of this legend, the hermit has become an apostate Christian monk, usually called Sergius, who acts as Muḥammad's teacher or counsellor. According to these versions, Muḥammad misunderstood or misinterpreted his companion's teaching, which eventually resulted in the Arabs becoming Muslims instead of Christians. The impact of such versions is clearly reflected in the enigmatic closing sentence of the DI: "Eciam enim omnes Sarraceni fere fuerunt Cristiani."<sup>7</sup> This statement can indeed only be true as the outcome of a Sergius-type story, and cannot apply to the DI, where there is no indication of any such conclusion.<sup>8</sup>

*Setting and animal protagonist: related accounts*

The appearance of an animal protagonist in Western accounts of Islam is not exceptional. Many authors have indeed ascribed to Muḥammad a

<sup>6</sup> The Baḥīrā legend is discussed in A. Abel, "Baḥīrā," in *Encyclopédie de l'Islam* 1 (Leiden and Paris, 1960), 950–51, and in M. Gaudefroy-Demombynes, *Mahomet*, 2d rev. ed. (Paris, 1969), 65–66. See also Daniel, *Islam and the West*, 109–11.

<sup>7</sup> See p. 349 below.

<sup>8</sup> It should be noted that the Sergius story is also found in the Gregorian Report (Vandecasteele, "Étude comparative," 131).

number of miracles, in some of which an animal is playing an important part. Among these miracles, the most widespread is that of a dove said to have whispered a divine revelation in the prophet's ear. Stories in which a comparable role has been assigned to other animals appear to be not nearly as well represented. In fact, only three medieval accounts feature an animal protagonist in a context similar to that of the DI, including the narrative form.<sup>9</sup> All of these stories, as the following summaries make clear, contain certain unique features which indicate that they are more or less independent of each other.

—Account by Guibert of Nogent (†ca. 1121).<sup>10</sup> Assisted by a learned hermit, Muḥammad has become famous and is widely regarded as a prophet. Having written a law, he gathers a large number of people and decrees a three days' fasting period, during which they should ask God for a law. The people are further told that if God is willing to comply with their request, this would happen not only in an unusual way but also "by hand." Muḥammad had previously trained a cow to come quickly to him as soon as it saw or heard him. He hides the animal in a tent, with a booklet bound between its horns. After three days the prophet starts addressing the crowd in a loud voice. The cow immediately dashes out of the tent, clears a way through the crowd, and hurries to the speaker. The prophet unlooses the booklet and shows it to the people, who gratefully accept it as the new law.

—Account by Thomas Tuscus (thirteenth century).<sup>11</sup> Muḥammad and a cleric have taught a cow, kept in a remote place, to eat from Muḥammad's lap. One day there gathers a crowd which has been promised it will receive a divine law. Muḥammad asks the people to pray God to send them a law they have to respect. His companion, hidden in a deep and dry well, simulates an angel's voice and urges the crowd to trust Muḥammad and to accept the law which God is going to give to him. Then Muḥammad goes up to the place where he used to feed the cow. The animal appears, bearing between its horns a text dictated (and attached) by the cleric. As soon as the cow has put its head in his lap, searching for food, Muḥammad unfastens the text, reads it and orders that it should be respected.<sup>12</sup> After the crowd has praised heaven, Muḥammad proclaims that the well will be dedicated to God and never be used by humans again. Thus he invites

<sup>9</sup> Our search through medieval literature was based on Daniel, *Islam and the West*.

<sup>10</sup> Guibert of Nogent, *Gesta Dei per Francos* 1.3, PL 156:691–92.

<sup>11</sup> Thomas Tuscus, *Gesta imperatorum et pontificum*, ed. E. Ehrenfeuchter, MGH Scriptores 22 (Hannover, 1872), 493.

<sup>12</sup> Surprisingly, we are not informed of the contents of the text.

everybody to throw one stone into the well, until it is completely filled. Having eliminated his companion, Muḥammad starts extending his power, which necessitates the enacting of laws. This culminates in the composition of the Qurʾān, rendering him both a prophet and a head of state.

—Account by Ranulph Higden (†ca. 1363).<sup>13</sup> Muḥammad secretly keeps a camel, used to being fed from his hands only. One night the animal is freed, with the Qurʾān bound around its neck. The next day, the camel arouses the curiosity of many people, since no one can approach it. When Muḥammad arrives, the animal immediately starts licking his hands. The surprised crowd asks Muḥammad, considered to be a prophet, to unbind and open the book. The latter, said to have been sent from heaven, is then accepted as the Muslim law.

What the above accounts all have in common in contradistinction to the DI is that they explain the success of Islam by tightly linking the person of Muḥammad with the Qurʾān. But within that common framework the approach also remains individual: Guibert (like the DI) starts the story with Muḥammad already a prophet, whereas Thomas and Ranulph call Muḥammad a prophet only after his alleged miracle. On the other hand, Guibert and Ranulph regard the Qurʾān as having been written before the episode, while Thomas claims it to have been composed as a result of Muḥammad's trick.

More important, however, is that these stories share a number of elements also found in the DI. The major one is the appearance of a trained animal, which acts as mediator or, more appropriately, as *legis lator*.<sup>14</sup> Additionally, both Thomas and Ranulph describe the animal as looking exceptionally handsome, a characteristic the DI gives to the boy.<sup>15</sup> Further common elements include the presence of a crowd, the impact of a voice (except Ranulph) and the effect of, *stricto sensu*, manipulation.

### *Sources of inspiration*

Both the animal protagonist and a number of incidental elements appearing in the DI offer, unlike those of the related accounts, some clues as to the sources possibly used by the redactor.

<sup>13</sup> Ranulph Higden, *Polychronicon* 5.14, ed. J. R. Lumby, vol. 6, Rolls Series (London, 1876), 34–36.

<sup>14</sup> The phrase *legis lator* was used both by William of Tyre (†1186) and William of Auvergne (†1249). The first applied it to Gabriel bearing the law to Muḥammad; the second applied it to the prophet himself, reported to have borne Abraham's law (see Daniel, *Islam and the West*, 37 and 355 n. 7).

<sup>15</sup> Thomas: *vacca pulcherrima coloribus varia*; Ranulph: *camelus elegantis formae*; DI: *iuvenis pulcher valde et speciosus*.

—*The deer.* Medieval narrators had appealed to three quadrupeds to illustrate Muḥammad's false prophethood: a cow, a camel, and a bull.<sup>16</sup> The deer in the DI adds to this number of ruminants, the majority of which appears to be horn-bearing, apparently for practical purposes.

The deer opted for in the DI may be a reflection of the animal's popularity in the early Middle Ages, especially as a result of Augustine's comments on Psalm 41. Since the animal mainly acted as a symbol of the catechumen or *fidelis perfectus*,<sup>17</sup> substitution in a role within a setting like that of the DI seems very improbable. A more likely source of inspiration is found in Virgil's *Aeneid* 7.475 ff. That passage deals with the shooting of a tame male deer, an intrigue set up by divine machinations, which causes war between the two parties involved, viz., the Latins as "autochthones" and the Trojans as intruders. Substituting Christians and Muslims for Virgil's Latins and Trojans, while retaining the stag as an instrument guided by Hadean or demoniac forces, would indeed provide an excellent starting point for an alternative story. Although the redactor of the DI might have followed another line of thought, the probability of his indebtedness to Virgil is greatly strengthened by the fact that the three key words in the title of his account—*nutrire*, *puer*, and *cervus*—are found combined in the following few verses of the episode under discussion:

ceruus erat forma praestanti et cornibus ingens,  
Tyrrhidae pueri quem matris ab ubere raptum  
nutribant . . .<sup>18</sup>

—*The voice.* The boy's voice is reported to have sounded *sicut citharodorum citharizantium in citharis suis*, which is borrowed from Apocalypse 14:2.<sup>19</sup> Originally, this sentence applies to the voice heard by John in his vision of the Lamb standing on Mount Sion surrounded by a huge crowd

<sup>16</sup> The account of Islam compiled by Vincent of Beauvais (†1264) comprises a passage—borrowed, according to his own words, from an (otherwise unknown) "Libellus in partibus transmarinis de Machometi fallaciis"—in which a bull is acting as mediator. Although there is no reference to the Baḥīrā legend, the passage contains all elements common to the related accounts mentioned above: "Taurus quoque similiter ad hoc ipsum consuetudine quadam edoctus vt de manu eius pabulum acciperet, ad vocem eius coram populo venit, & quasi legis nouæ mandata cælitus missa, quæ ipse cornibus eius alligauerat detulit" (*Speculum historiale* 23.40, vol. 4 of Vincent of Beauvais, *Speculum maius* [Douai, 1624], 913).

<sup>17</sup> Cf. J. Bayet, "Le symbolisme du cerf et du centaure à la Porte Rouge de Notre-Dame de Paris," *Revue archéologique*, 6th ser., 44 (1954): 21–68, esp. 27–29.

<sup>18</sup> *Aeneid* 7.483–85, ed. C. J. Fordyce, P. G. Walsh, and J. D. Christie, *P. Vergili Maronis Aeneidos libri VII–VIII* (Oxford, 1977), 16. Note that here too the animal is described as being exceptional in appearance.

<sup>19</sup> Like [the sound] of harpists playing on their harps [whilst singing]. The text quoted above is in the spelling of the Vulgate, that of the DI (p. 349 below) being slightly different.

of people. It can hardly be called a coincidence that the redactor of the DI refers to a well-known biblical passage, where a remote place, an animal, and a crowd are also combined. Projection of these elements into a new context would indubitably provide a solid basis for an alternative story.

—*The chain of gold.* This element might have been borrowed from the experience of the prophet Daniel at the court of Balthasar: Daniel is offered, among other things, a chain of gold round his neck for the interpretation of mysterious words written on the palace wall during the king's last feast (Daniel 5). The redactor of the DI might have combined these elements of mystery and recompense in a chain of gold bearing a message whose meaning is only made clear in the context of his story.<sup>20</sup>

—*The phenomenon of polygamy.* The incorporation of this item into the DI can be considered a consistent consequence of the general belief in the West that Muhammad had established a religion of indulgence, thus tempering the rigidity and severity of Christian (and Jewish) religion.<sup>21</sup> In referring to Abraham and Moses, the redactor of the DI further lends support to the widespread assumption that the Qur'ān was based on, or had greatly been inspired by, the Bible. Along with a number of secondary arguments using biblical references,<sup>22</sup> the famous *crescite et multiplicamini* (Genesis 1:28) is used in particular here as an argument in favour of polygamy. The phrase was rather popular in the Middle Ages,<sup>23</sup> and the redactor of the DI might have introduced the phrase in the narrative, finding its application in this context almost self-evident. The idea of referring to that phrase might, however, also have been borrowed from Matthew Paris, who used it as a starting point for his own explanation of polygamy.<sup>24</sup>

Regarding the legal aspect of polygamy, the DI appears to be well informed: a man is allowed to have three or four free-born wives, and as many concubines and mistresses as he can afford. This information seems trivial, but it is not. Medieval authors have, notwithstanding the fact that they knew of the existence of Muslim polygamy, indeed held the most fabulous views in this matter.<sup>25</sup> The only author who provided the information

<sup>20</sup> In this biblical context it is worth mentioning that camels (cf. Ranulph Higden!) also used to wear a chain of gold round their necks (see Judges 8:26, where they are part of Gideon's booty after his defeat of the Midianites).

<sup>21</sup> Cf. Daniel, *Islam and the West*, 177–80.

<sup>22</sup> The help rendered to the Jews in the desert (manna, quails, and water) is obviously from Exodus 16–17.

<sup>23</sup> See J. Cohen, *“Be Fertile and Increase, Fill the Earth and Master It”: The Ancient and Medieval Career of a Biblical Text* (Ithaca and London, 1989).

<sup>24</sup> Matthew Paris, *Chronica majora*, ed. H. R. Luard, vol. 3, Rolls Series (London, 1876), 356.

<sup>25</sup> See Daniel, *Islam and the West*, 158–60.

more or less as found in the DI appears to be James of Vitry (†1240);<sup>26</sup> but since his account of Islam has been shown to be greatly indebted to the Gregorian Report,<sup>27</sup> it seems more likely that the DI has borrowed from the latter source.<sup>28</sup>

—*The prophet's person and image.* In general, medieval authors had distinct views regarding the intellectual background of Muhammad: some considered the prophet to be illiterate, which is the traditional Muslim belief, whereas others reported him as highly educated.<sup>29</sup> The DI clearly shares the latter opinion, since Muhammad is said to have been counselled by several Greek, Jewish, Arab, and Christian scholars;<sup>30</sup> this explains the prophet's comprehensive instruction of the boy, more particularly in what is referred to as *doctrina litteralis*.<sup>31</sup> As to Muhammad's image, the redactor of the DI follows the medieval trend by describing him as "wicked" (*nequam*) and by calling him a "demon" (*demon*) or "impostor" (*pseudo fallax*). Furthermore, the DI transfers to the boy a title often used for the prophet, viz., "messenger" (*nuncius*); it is strange, however, that the boy is once said to be *nuncius et filius Dei*.<sup>32</sup> Finally, the prophet is claimed to have convinced and/or seduced people by a number of persuasive means ranging from recompense, through intimidation and exhortation, to scourge and harassment; but historically, this way of gaining adherence is

<sup>26</sup> See *ibid.*, 159.

<sup>27</sup> Vandecasteele, "Étude comparative," 94–97.

<sup>28</sup> James of Vitry claimed that a Muslim was initially (!) allowed to have an unspecified number of women, both wives and concubines. He added that in his day—he was bishop of Acre from 1216 to 1229—the situation was as follows: "Saraceni autem tres vel quatuor simul, & non amplius, hodie ducunt vxores, quæ liberæ sunt. Concubinas & ancillas quas emunt, quotcunque volunt, possunt habere" (*Historia Jherosolimitana*, in *Gesta Dei per Francos, Sive orientalium expeditionum, Et regni Francorum Hierosolimitani Historia* . . . , ed. J. Bongars, vol. 1 [Hanau, 1611], 1058). The Gregorian Report, on the contrary, is straightforward and indubitable: "Secundum legem suam ducit homo uxores tres aut quatuor si habet facultates ad hoc sufficientes. Uxores quidem debent esse libere; de ancillis vero aut concubinis tot habent quot regere et pascere possunt" (Gregorian Report III 3, ed. Vandecasteele, "Étude comparative," 133).

<sup>29</sup> Daniel, *Islam and the West*, 79 and 107–8.

<sup>30</sup> Another account, dating from the thirteenth century, reports that the prophet was instructed by ten Arabs, two Christians, and a number of Jews, who happened to be his first adherents (M. Serrano y Sanz, "Vida de Mahoma, según un códice latino de mediados del siglo XIII," *Ervdición ibero-vltramarina* 2 [1931]: 392–93).

<sup>31</sup> Some authors regarded the prophet as a magician or one skilled in the *artes liberales* (see Daniel, *Islam and the West*, 108).

<sup>32</sup> For the prophet's titles and epithets, see Daniel, *Islam and the West*, 36–37, 51, and 107–8 (where *pseudo fallax* is not mentioned). The phrase *nuncius et filius Dei* in the DI may be erroneously derived from one like *propheta Dei et nuntius* (*ibid.*, 37).

associated with Abū Bakr, Muḥammad's successor as head of the Muslim community.<sup>33</sup>

#### IV. CONCLUSION

The Dresden insert can be considered remarkable for two reasons. First, the document appears to be unparalleled, as it is found neither in earlier nor in contemporary redactions of the Gregorian Report. Hence, the insertion of this passage into the text must have taken place at the time the Dresden manuscript was written, viz., in the fifteenth century. This is indirectly supported by the fact that the Dresden redaction of the Gregorian Report is closely linked to, if not derived from, a fourteenth-century version, which does not contain the insert.<sup>34</sup> Second, although Western medieval accounts of, or texts dealing with, Islam were relatively numerous before the fifteenth century, no direct or indirect source for this passage appears to be extant. In view of both the introduction of novel items and the original way they are combined, the copyist of the Dresden redaction can hardly be held responsible for the content of the story. Thus it may be assumed that the inserted passage derives from a general text on Islam, either as yet undiscovered or lost in the course of time.

#### V. EDITION

##### *Manuscript*

Dresden (Germany), Sächsische Landesbibliothek F 93, fols. 340v–341v.

##### *Mode of edition*

The text is presented in a normalized form: all the abbreviations have been expanded and punctuation has been provided. The original spelling of the manuscript has been respected; the use of capitals conforms to modern customs.

<sup>33</sup> After Muḥammad's death, the Muslim community was in danger of disintegration, which necessitated a number of unpopular measures (see W. Montgomery Watt, "Abū Bakr," in *Encyclopédie de l'Islam* 1:112–14). Since the "methods" attributed to the prophet also appear—in the right context—in the Gregorian Report II 16 (Vandecasteele, "Étude comparative," 129), the information provided by the DI is likely to have been taken from that source.

<sup>34</sup> Prague, Universitní knihovna III C 14. See Vandecasteele, "Étude comparative," 100 and the list of sigla on 98–99.

Since the manuscript was damaged during the last war, the text contains a number of blanks; it was, however, possible to fill them without problems of interpretation.

### *Text*

Item de Machometo quomodo nutriuit puerum et ceruum.

Machometus, Sarracenorum propheta, in cripta remota nutriuit quendam iuuenem pulchrum valde et speciosum. Et ipsum docuit et erudiuit in doctrina litterali cum multiplicitate multarum ligularum, et moribus eum ornauit et loquela venusta reddidit illum facundum. Et in omni lege erat fere instructus, nam ipse nequam Machometus adhibuerat secum quosdam viros sapientes: Grecos, Judeos et Sarracenos atque Cristianos. Et cum predicto puero nutriuit quendam ceruum. Et ipsum ceruum docuit ex magno usu quod statim viso puero inclinabat se, et osculabat manus et pedes pueri. Surrexit post hoc quodam tempore ipse Machometus, dictus a suis propheta, et palam prophetauit. Et dixit: "Scitis, filij, quod Dominus videns Cristianorum legem nobis grauem esse, in proximo mittet nuncium suum, et dabit legem competencio<sup>a</sup> et leuiorem nobis." Tempore ab ipso Machometo<sup>b</sup> prefixo adueniente, ecce innumerosa multitudo conuenit in vnum et ex<sup>c</sup> diuersis<sup>d</sup> et remotis locis. Et puer longo tempore in cripta nutritus et conditus<sup>e</sup> erat in populo. Et Machometus locutus est plebibus et populis<sup>f</sup> sceleratis: "Sciatis quod inter nos est nuncius et filius Dei quem nobis occultata fide ostendat ceruus quidam habens inter cornua torquem<sup>g</sup> aureum" (quem ipse demon fecerat fieri; et in torque erat<sup>h</sup> lex scripta *Ad quem ceruus ibit prostratus ad pedes, ipse<sup>i</sup> est*). Sicque factum est ut pseudo fallax prophetauit. Statim<sup>k</sup> ex quo ceruus vidit puerum, pro-

<sup>a</sup> first *c* and *m* partly visible; first *o* missing

<sup>b</sup> *mathabeto* MS; the manuscript family to which the Dresden redaction of the Gregorian Report belongs is not devoid of lapses of this kind: in section II 11, for example, *mazonis* and *magonis* are found for *machometi* (cf. Vandecasteele, "Étude comparative," 117, var. 176)

<sup>c</sup> *x* missing (part of stroke visible)

<sup>d</sup> merely *ue* in MS

<sup>e</sup> *co* missing

<sup>f</sup> *opu* partly visible

<sup>g</sup> *rqu* partly visible

<sup>h</sup> *erat* blank in MS

<sup>i</sup> merely *ip* in MS (abbreviation stroke partly visible)

<sup>j</sup> *e* missing; *s* partly visible

<sup>k</sup> *im* missing

cidit ad pedes eius. Et subito omnis<sup>l</sup> populus corruit ad pedes pueri qui surrexit et ait, incipiens ab inicio mundi et a lege quam dedit Dominus Moysi; et quomodo plures uxores habuerunt patres, et feminas et de alijs; et quomodo restricta est lex quod nisi vnam quis habet, et de alijs multis; et quomodo vidit Deus quod propter hoc oportet deperiri genus humanum<sup>m</sup>, et quod dicta lex Cristianorum grauis nobis est et molesta; et respexit Deus ad voluntatem nostram, sicut et Judeis olim fecit in manna et conturnicibus et aqua de rupe ficta; sic vult modo largiorem legem nobis dare, quare ipse dixit *crescite et multiplicamini*; et sic omnino quisque habeat scilicet tres uel quatuor uxores liberas, concubinas et amasias quot regere possit. Et induxit exemplum Abrahe et aliorum, et alia multa dixit. Quia vox eius tamquam angelica erat et sicut citaredorum citarisancium in citaris suis, et exinde Machometus magnus propheta habitus propter hoc infinitam pecuniam congregauit<sup>n</sup>. Et corripit homines et seduxit cum precio, cum metu, cum exhortacione<sup>o</sup> verborum et verberibus et flagellis. Eciam enim omnes Sarraceni fere fuerunt Cristiani.

*Gent, Belgium.*

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<sup>l</sup> *o* missing (abbreviation stroke visible)

<sup>m</sup> merely *hua* in MS (abbreviation stroke visible)

<sup>n</sup> *a* and *it* partly visible; *u* missing

<sup>o</sup> *ex* missing; *h* partly visible

“MORS ET VITA IN MANU LINGUAE”:  
PAROLES DÉVASTATRICES ET LÉNIFIANTES DANS  
LE LIVRE DU CHEVALIER DE LA TOUR LANDRY\*

*Anne Marie De Gendt*

*C*ERTES ainçois se cesseront / Les oiseaux, plus ne chanteront / Ne les  
gresillons en esté / Que femme ait telle poësté / Que sa langue puist  
retenir / Quel mal qu’il en doye avenir.<sup>1</sup> Tel est le message que répètent sur  
tous les tons, tout au long du moyen âge, les textes littéraires de caractère  
misogyne.<sup>2</sup> Message auquel souscrivent prédicateurs et moralistes dans  
leurs admonitions visant à réglementer l’usage de la parole féminine.<sup>3</sup> De  
nombreuses représentations picturales et sculpturales mettent en scène,  
elles aussi, des femmes qui sont incapables de mesure et de réflexion dans  
leurs discours.<sup>4</sup>

Le langage des femmes occupe également une place d’importance dans  
le traité d’éducation qu’a écrit, au cours des années 1371–72, le chevalier  
angevin Geoffroi IV de la Tour Landry. Par rapport à l’ensemble de la lit-  
térature didactique, cet ouvrage présente un aspect qui mérite d’être étu-  
dié: une perception particulière du discours féminin, et même de l’usage  
de la parole en général.

*Le Livre du Chevalier de la Tour Landry pour l’enseignement de ses filles*  
(= *Livre*) est un long discours didactique, entrecoupé d’histoires exem-

\* La présente étude a fait l’objet d’une communication lors du premier Congrès Interna-  
tional d’Études Médiévales qui s’est tenu à Leeds, du 4 au 7 juillet 1994. L’exergue est tiré du  
Livre des Proverbes (18:21).

<sup>1</sup> *Les Lamentations de Matheolus et le Livre de Leesce de Jehan le Fèvre, de Resson*, édités  
par A.-G. Van Hamel, 2 tomes (Paris, 1892–1905), 1:51–52 (vers 177–82).

<sup>2</sup> À part les *Lamentations de Matheolus*, le *Roman de la Rose* (cf. le long discours de Genius)  
et les *Quinze Joies de Mariage* comptent parmi les plus importants. Voir aussi *Woman Defamed  
and Women Defended: An Anthology of Medieval Texts*, ed. Alcuin Blamires (Oxford, 1992).

<sup>3</sup> À ce sujet, voir la mise au point très adéquate de Carla Casagrande dans *Histoire des  
Femmes en Occident*, éd. Georges Duby et Michelle Perrot, 5 tomes (Paris, 1991–), 2, chapitre  
3: “La femme gardée,” et plus précisément 111–15.

<sup>4</sup> Il s’agit notamment de scènes du Jugement Dernier, où les femmes qui se sont rendues  
coupables de péchés de la langue sont inexorablement reléguées en enfer. Voir, par exemple, le  
panneau du *Jugement Dernier* conservé au Vatican, étudié par Chiara Frugoni dans *Histoire des  
Femmes* 2, chapitre 11: “La femme imaginée,” 373–74.

plaires. Il s'inspire essentiellement du *Miroir des Bonnes Femmes*, oeuvre écrite à-peu-près un siècle plus tôt par un moine franciscain et composée de récits édifiants, accompagnés de passages moralisateurs.<sup>5</sup> Dans le prologue, le Chevalier annonce qu'il destine son traité à l'édification de ses propres filles. Comme celles-ci, jeunes et inexpérimentées, vivent dans un monde moralement malade et hypocrite où il leur faudra trouver un juste chemin, il va leur proposer des modèles positifs ou négatifs, choisis dans le passé ou le présent. L'objectif de l'auteur est clair: il veut que ses filles "tourn[ent] à bien et à honnour en Dieu servir et amer, et avoir l'amour et la grace de leurs voysins et du monde" (prol., 4.24–26).<sup>6</sup> Or, si le salut de l'âme est un élément très important dans le *Livre*, "l'onnour du corps terrien," comme le dit le Chevalier un peu plus loin (4.30), l'est tout autant. En fait les deux éléments sont intimement liés: une femme qui se préoccupe du salut de son âme a droit aux louanges de Dieu et à celles du monde (chap. 116, 226.1–4), l'auteur le répétera souvent. De même, l'approbation de l'entourage social, et donc la bonne renommée—élément capital dans le *Livre* comme dans toute la littérature didactique—s'acquiert par le respect de certains codes et conventions ayant trait au commerce social dans le monde, autant que par l'observation d'un nombre de prescriptions religieuses et morales. S'il y a interaction entre le religieux et le profane dans les enseignements du Chevalier, il accentue l'un ou l'autre aspect selon les cas: certaines prescriptions témoignent surtout d'une préoccupation de l'au-delà, alors que d'autres visent essentiellement à procurer aux jeunes filles un bien-être social temporel, en accord avec leur *estat*. Ces deux aspects—religieux et profane—se retrouvent dans les conseils de l'auteur concernant le discours féminin, mais du fait du caractère éminemment social du langage, le deuxième se trouve privilégié.

Nous nous proposons de passer d'abord en revue les exigences que le Chevalier impose au langage *actif* des femmes ainsi que les défauts qu'il y découvre, puis d'examiner le langage féminin *passif*, et nous entendons par là le langage en réaction à une sollicitation ou à une agression verbale de la part des autres. Nous terminerons par une brève réflexion sur le langage en tant que facteur destructeur de cette "caisse de résonance des vices et vertus féminins" qu'est la réputation.<sup>7</sup>

<sup>5</sup> Ce traité a inspiré, de façon plus ou moins prononcée selon les endroits, les deux tiers du *Livre*. Voir John L. Grigsby, "A New Source of the *Livre du Chevalier de La Tour Landry*," *Romania* 84 (1963): 171–208.

<sup>6</sup> En attendant la parution d'une nouvelle édition du *Livre* dans la collection *Lettres Gothiques*, nous référons à l'édition d'Anatole de Montaiglon, *Le Livre du Chevalier de la Tour Landry pour l'enseignement de ses filles* (Paris, 1854).

<sup>7</sup> Silvana Vecchio dans *Histoire des Femmes* 2, chapitre 4: "La bonne épouse," 139.

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Il est évident que les passages du *Livre* où il est question du bon ou du mauvais usage de la parole doivent être lus à la lumière d'une certaine tradition. En ce qui concerne l'usage de la parole en général, il faut mentionner le poids énorme des saintes Écritures. S'il "n'y a pas de parole vertueuse [ou] pécheresse qui n'ait été indiquée ou condamnée dans quelque verset biblique,"<sup>8</sup> ce sont néanmoins les livres sapientiaux de l'Ancien Testament et l'épître de Jacques qui sont particulièrement riches en informations pertinentes. Il faut signaler aussi qu'un intérêt accru pour les péchés de la langue se développe à partir de la fin du XII<sup>e</sup> siècle chez les prédicateurs, théologiens et moralistes. Jusque là, les fautes commises au moyen de la langue n'occupaient pas une place à part dans les systèmes élaborés, depuis le haut moyen âge, pour classer les péchés capitaux.<sup>9</sup> Cela changea du tout au tout au cours du XIII<sup>e</sup> siècle où le péché de la langue devint pour ainsi dire "le péché du siècle." Dans cette période, de nombreux auteurs se sont ingéniés à élaborer une éthique de la parole et on assiste à un foisonnement de textes consacrés au péché de la langue, péché qui à partir de 1250, avec la *Summa de vitiis et virtutibus* du dominicain Guillaume Peyraut, fut considéré comme un péché capital, au même titre que les sept autres.<sup>10</sup> Tout cela semble prouver qu'au cours du XIII<sup>e</sup> siècle les écarts de langage sont perçus comme particulièrement répandus et dangereux à la fois. Vers le milieu du XIV<sup>e</sup>, la sensibilité aux problèmes de la parole est toujours bien existante.

Une première approche limitative du discours féminin apparaît dans deux textes de saint Paul: l'apôtre lui interdit toute dimension publique (1 Tim 2:12), mais lui en accorde une en privé car la femme peut alors interroger son mari (1 Cor 14:34–35). Ces passages sont la source principale des codifications ultérieures de la parole féminine. A cela s'ajoutent les

<sup>8</sup> Carla Casagrande et Silvana Vecchio, *Les péchés de la langue: Discipline et éthique de la parole dans la culture médiévale*, traduit de l'italien par Philippe Baillet, avec une préface de Jacques Le Goff (Paris, 1991), 21. Le cadre théorique de notre discours s'inspire essentiellement de cette excellente étude.

<sup>9</sup> On les considérerait comme des dérivés des principales tendances pécheresses, ne pouvant être extirpés qu'avec celles-ci. Sur les systèmes de classification des péchés dans la théologie chrétienne, voir, e.a., Morton W. Bloomfield, *The Seven Deadly Sins: An Introduction to the History of a Religious Concept, with Special Reference to Medieval English Literature* (East Lansing, Mich., 1952), 69–104.

<sup>10</sup> Peyraut distingue vingt-quatre types de péchés de la bouche (Casagrande et Vecchio, *Péchés de la langue*, 102). Dans les traités écrits à la suite de la *Summa*, le nombre et le type des péchés de parole varient.

théories, véhiculées par les textes aristotéliens, sur la faible raison des femmes, qui les rendrait incapables de se contrôler et de contrôler leurs paroles.

Examinons maintenant les points de vue du Chevalier de la Tour Landry concernant le langage des femmes. Dans cette analyse, les passages du *Livre* qui ont trouvé leur inspiration dans la source principale de l'oeuvre, le *Miroir des Bonnes Femmes* (voir ci-dessus), seront comparés succinctement avec le texte de base,<sup>11</sup> ce qui nous permettra de déterminer l'originalité des opinions de notre auteur.

Commençons par les théories du Chevalier concernant le langage actif. Au chapitre 13 du *Livre* l'auteur inventorie les exigences auxquelles une jeune fille noble doit satisfaire pour plaire à son entourage et pour être une candidate valable au mariage:

toutes gentilz femmes de bon lieu venues doivent estre de doulces manières, humbles et fermes d'estat et de manières, poy emparlées, et respondre courtoisement (29.20–23).

Le langage mesuré souhaité ici (*poy emparlées*) est associé à la retenue générale dans la conduite que l'on imposait traditionnellement aux femmes. L'initiative n'est pas appréciée et l'accent est mis sur la réponse: en fait, la parole active de la femme considérée comme digne de louanges est, la plupart du temps, une parole passive, une réaction à une initiative verbale d'un interlocuteur (le plus souvent masculin). Même ces réponses ne doivent pas être trop promptes: le Chevalier demande à ses filles de faire une petite pause entre la question et la réponse, afin de pouvoir répondre avec plus de sagesse, et il invoque un proverbe pour appuyer ce conseil: "autant vault celui qui oit et riens n'entant comme celui qui chasse et riens ne prent" (chap. 12, 28.1–3).<sup>12</sup> C'est d'ailleurs aussi la peur de la sot-

<sup>11</sup> Nos références se feront au MS 2156 de la Bibliothèque de l'Arsenal, le seul à contenir une version complète du texte qui date d'avant 1371. Selon les investigations de Grigsby, c'est le manuscrit qui est le plus proche du texte du *Livre* (Grigsby, "New Source," 174–75 et 191). Soulignons que, la plupart du temps, le Chevalier ne se contente pas d'une imitation servile de son modèle: quelquefois il résume le texte de sa source, le plus souvent il le développe, avec, par endroits, une certaine tendance à la verbosité. La technique adoptée est plus ou moins fixe: copie des premières phrases d'un chapitre, écart, reprise d'une ou deux phrases servant de point de repère, nouvel écart, etc. (ibid., 194 et 198). Une comparaison suivie entre le *Livre* et le *Miroir* fera l'objet d'une de nos prochaines publications.

<sup>12</sup> Les proverbes et expressions proverbiales figurant dans le *Livre* ont été répertoriés par Peter Stolingwa avec les expressions analogues qu'il leur a trouvées (*Zum livre du Chevalier de La Tour Landry pour l'enseignement de ses filles. Die Breslauer Handschrift des Textes, die kulturhistorische Bedeutung des Werkes und seine Quellen* [Breslau, 1911], 155–60). Dans son édition de la traduction anglaise du *Livre* par Caxton, M. Y. Offord note que le numéro XVI des *Diz et proverbes des sages*, édités par Joseph Morawski (Paris, 1924), se rapproche également de l'ex-

tise qui lui a inspiré l'admonition précédente: "qui parle trop ne puet toujours dire que saige" (27.28–29).<sup>13</sup> La réserve exigée n'est donc pas seulement commandée par le respect des conventions sociales, comme c'est par exemple le cas dans *Le Chastoïement des Dames* de Robert de Blois;<sup>14</sup> elle a aussi une raison d'être d'ordre philosophique.

Une jeune fille est également censée répondre *courtoisement* (29.23, cité ci-dessus). C'est un terme que le Chevalier reprend chaque fois qu'il est question d'un discours féminin convenable. Très souvent il y ajoute le terme *bel*, quelquefois il y associe la douceur du langage (voir, entre autres, chap. 65, 137.27–29). Pour notre auteur le terme courtoisie ne signifie pas conformité aux normes de la société courtoise, comme c'est encore le cas chez Robert de Blois, par exemple. Au chapitre 10 le Chevalier affirme que la courtoisie est le meilleur remède contre l'orgueil et la colère, et le "premier chemin et l'entrée de toute amistié et amour mondaine" (22.17–18). Elle s'oppose à la rudesse et la cruauté. Plus loin il devient clair qu'il y a un lien très fort entre la courtoisie et l'humilité, qui est pour l'auteur la vertu suprême de la femme:<sup>15</sup> la courtoisie n'a de réelle valeur que lorsqu'elle est témoignée à plus petit que soi (23.8–19); répondre courtoisement, c'est répondre humblement (23.5–6).

Les autres passages, assez nombreux d'ailleurs, où il est question de la parole féminine positive ont tous trait aux rapports entre mari et femme.<sup>16</sup> Le scénario utilisé est toujours le même. L'épouse ne doit pas répondre en public à un époux en colère ou déraisonnable, puisque "le seigneur de son droit doit avoir sur sa femme le hault parler, soit tort ou droit, et especialment en son yre devant les gens" (chap. 63, 134.13–15). Mais lorsqu'ils seront seuls, elle doit exercer une influence apaisante par des paroles que le Chevalier qualifie invariablement de *doulces*, *belles*, *humbles* et/ou *courtoises*. Notre auteur suit ici entièrement la tradition qui affirme la supé-

pression proverbiale que le Chevalier invoque ici (*The Book of the Knight of the Tower. Translated by William Caxton*, ed. M. Y. Offord, EETS, s.s., 2 [London, 1971], 198).

<sup>13</sup> Pour d'autres occurrences de ce proverbe très courant, voir James Woodrow Hassell, Jr., *Middle French Proverbs, Sentences, and Proverbial Phrases*, Subsidia Mediaevalia 12 (Toronto, 1982), 191–92.

<sup>14</sup> Voir dans John Howard Fox, *Robert de Blois: Son oeuvre didactique et narrative* (London, 1948), 133, vers 9–26.

<sup>15</sup> Conformément à la tradition, son contraire, l'orgueil, est constamment stigmatisé comme le péché le plus grave, celui que Dieu hait le plus.

<sup>16</sup> Il s'agit des chapitres 18, 63, 65, 71, 97 et 99, qui, sauf le 18, s'inspirent tous du *Miroir*. Dans le *Livre*, les passages concernant les discussions conjugales sont généralement plus développés que dans le *Miroir*, ou même ajoutés aux données du texte original. Pour une table des correspondances entre les chapitres du *Miroir* et ceux du *Livre*, voir Grigsby, "New Source," 203–4 et 206.

riorité absolue de la parole masculine (*soit tort ou droit*) et qui ôte à la femme tout droit de parler en public, mais lui accorde un rôle de conseillère dans l'intimité conjugale. Encore faut-il qu'elle l'exerce avec modestie et humilité!

Pour compléter la liste des paroles positives traitées dans le *Livre*, il faut nommer la prière et la confession, sur les vertus desquelles l'auteur insiste comme il se doit.

Mais quelles seraient les mauvaises paroles, les péchés de la langue dont le Chevalier accuse les femmes? D'abord, par opposition au langage positif dont nous venons de donner quelques exemples, on trouve le fait de parler trop (chapitres 12 et 13)—surtout à l'église, où les hommes parlent d'ailleurs autant que les femmes! (28 et 29), de répondre sans la correction nécessaire ou de manière trop hautaine (14, 17, 63, 66) ou abondante (39), et, pour la femme mariée, de répondre "sans le conseil de son seigneur" (chap. 40, 88.22–23).<sup>17</sup> Ensuite viennent le *fol conseil* (chapitres 45, 65 et 66) et la *folle requeste* auprès du mari (77), ainsi que les fausses accusations (67); tous ces éléments figurent déjà dans le *Miroir*, et le Chevalier n'y insiste pas spécialement. Il en va de même pour les railleries ou les reproches adressés aux malades ou aux malheureux (80), qui risquent fort de retomber sur celle qui les profère. L'auteur s'arrête davantage sur le péché de malédiction. Le *maledictum* est un péché complexe, conséquence de l'orgueil ou de la colère, et il était considéré comme extrêmement grave quand il était fait au sein de la famille. Le Chevalier en donne deux exemples dans le chapitre 84. Le premier est un récit qui raconte l'histoire biblique de Lia, femme de Jacob et mère d'une nombreuse progéniture, et s'inspire d'un passage du *Miroir* (fol. 58a). Dans le *Miroir*, il s'agit du premier d'une suite de récits qui soulignent la force de l'humilité; le Chevalier, lui, montre également qu'il faut "chascun jour prier Dieu pour ses enfans" (166.5–6) et surtout ne jamais les maudire, "tant y a grant peril" (166.12). L'histoire qui suit illustre ce danger: un homme et une femme s'emportent contre leur fils, puis le maudissent et le "donne[nt] à l'enemy" (166.21); celui-ci s'envole avec l'enfant. Remarquons qu'il y a partage de la culpabilité et de la responsabilité: le père *et* la mère maudissent l'enfant.

De nombreux textes littéraires et didactiques considèrent l'incapacité à garder un secret comme un défaut spécifiquement féminin. Le Chevalier le traite d'abord dans deux récits consécutifs (74), où, conformément à la

<sup>17</sup> Comme l'auteur du *Miroir* (fol. 4a), le Chevalier impute ce dernier défaut à Eve, représentée comme une femme mariée.

tradition, une épouse révèle les secrets de son mari. Dans le dernier chapitre du *Livre* il revient sur le sujet, dans l'histoire des trois enseignements de Cathon à son fils Cathonnet. Le père enjoint au fils de mettre sa femme à l'épreuve en lui confiant un secret qui concerne l'honneur de son mari. Cette tentative se solde par un échec. Cathon au début et Cathonnet à la fin de l'épisode se prononcent sur le traditionnel manque de discrétion concédé aux femmes. En dictant sa volonté à son fils, Cathon divise les femmes en deux catégories: s'il y en a qui ne savent pas tenir leur langue, dit-il, "il en est de moult saiges et de bonnes qui scevent bien celer et qui donnent de bons advisemens" (chap. 128, 279.7–9). Cathonnet se déclare peu surpris d'avoir été déçu par sa femme, "car ce n'est pas nouvelle chose," dit-il, que les femmes ne sachent taire un secret. Mais comme son père, il estime que cela n'autorise pas à ranger toutes les femmes dans un même groupe: certaines, "bien saiges et de subtil engin," sont d'une *nature* différente (288.18–22). Si les événements racontés confirment la tradition, les discours du père et du fils laissent entrevoir un optimisme modéré.

Un péché auquel notre auteur n'accorde que très peu d'attention est celui de médisance, du moins comme péché à mettre spécialement à l'actif des femmes. En réalité il n'apparaît qu'une fois en tant que tel, et comme l'un des nombreux défauts ayant causé la perte de l'épouse d'un chevalier anonyme (chap. 50, 106.20–23). A part cela, à la fin d'un récit destiné à démontrer les méfaits de l'envie, la médisance est associée à ce vice capital (chap. 68, 142.18–19) dont elle est censée provenir.<sup>18</sup> Le Chevalier évoque aussi la médisance dans les deux derniers chapitres du *Livre*. Il en parle alors comme d'un type de discours qui demande une réaction de la part de la femme, ou en des termes plus généraux (nous y reviendrons). Ce relatif silence est d'autant plus frappant si l'on sait que Christine de Pizan, par exemple, dans son *Livre des Trois Vertus*, consacre de longues pages à mettre son public en garde contre ce péché trop souvent commis par les femmes, selon elle.<sup>19</sup>

<sup>18</sup> Il s'agit de l'histoire de Marie, soeur de Moïse, qui, en raison de sa jalousie mesquine, reçoit la pire des punitions: elle devient lépreuse. Or, traditionnellement, cette histoire fut invoquée pour illustrer la gravité des peines qui touchent les médisants (Casagrande et Vecchio, *Péchés de la langue*, 250). Le *Miroir*, auquel le Chevalier emprunte cette histoire, blâme envie et médisance, qui sont associées tout au long du chapitre (fol. 15a–b).

<sup>19</sup> Christine de Pizan, *Le Livre des Trois Vertus*, éd. Charity Cannon Willard, Eric Hicks (Paris, 1989), 140–48. Notons toutefois que Christine parle ici en particulier du milieu de la cour et qu'elle signale également que certains hommes n'y agissent pas autrement.

Comme le souligne Mireille Vincent-Cassy, les femmes de la noblesse étaient particulièrement exposées aux médisances (et aux flatteries). Voir Mireille Vincent-Cassy, "Péchés de femmes à la fin du moyen âge," dans *La Condición de la mujer en la Edad Media*, éd. Yves-René Fonquerne et Alfonso Esteban (Madrid, 1986), 510.

Si le Chevalier évoque bien plusieurs types de langage féminin négatifs, il est frappant de constater qu'il n'insiste pas sur la plupart d'entre eux, alors que certains—le bavardage, le mensonge et la médisance notamment—comptaient quand même parmi les défauts les plus réputés.<sup>20</sup> Quant aux conséquences des paroles fautives, elles sont le plus souvent d'ordre social, allant de l'annulation d'un projet de mariage à la réprobation du mari ou de l'entourage.

Un sujet sur lequel le Chevalier s'étend toutefois longuement est celui de la dispute verbale, du *tencier*. Plusieurs chapitres du *Livre* y sont consacrés. Il s'agit d'une catégorie qui est à cheval entre le langage actif et ce que nous avons appelé le langage passif de la femme, puisque le Chevalier traite aussi bien l'attaque verbale féminine que la réaction qu'une femme doit avoir lorsque quelqu'un lui cherche querelle. La plupart des anecdotes invoquées viennent de l'expérience personnelle de l'auteur. A chaque fois l'altercation décrite a un caractère public: elle se passe le plus souvent lors d'une fête, une fois même en pleine rue. Traitons d'abord la dispute entamée par la femme elle-même. Le Chevalier fait un inventaire des gens avec qui il faut absolument éviter de se quereller: "gens folz qui [ont] male teste . . . et rioteuse" (chap. 15, 32.16–23); "gens qui ont le siècle à main et ont manière et sens de parler" (chap. 22, 50.7–8); "gens qui sont felons et cruelz" (chap. 96, 187.21) ou qui ont "haultain couraige" (chap. 15, 33.31) et bien sûr les maris particulièrement coléreux. Ce sont, dans les grandes lignes, les types mêmes de personnes contre lesquels la plupart des écrits sur les péchés de la langue mettent en garde. Pour notre auteur, le danger des querelles réside surtout dans le fait que les personnes attaquées—presque toujours des hommes—se vengent volontiers par des réponses hautaines et outrageantes qui révèlent à l'assistance des faits—fondés sur la vérité ou non—qui causent la perte irrémédiable de la réputation de l'instigatrice du litige: en *estrivant* l'on met "son honnour et son estat en grant balence" (chap. 19, 44.8). Cela pèse très lourd pour notre auteur, nous en voulons pour preuve l'insistance avec laquelle il raconte, très en détails, l'histoire d'une jeune fille noble qui a ainsi perdu

<sup>20</sup> Le rapport des femmes au mensonge est un topos de la littérature misogyne (voir aussi Jacqueline Cerquiglini, "*Un engin si subtil*": *Guillaume de Machaut et l'écriture au XIV<sup>e</sup> siècle* [Genève-Paris, 1985], 146–47). Bien que le Chevalier ne parle pas du mensonge au féminin en tant que tel, un (seul) passage du *Livre*, inséré dans un chapitre sur la jalousie conjugale, nous apprend que les femmes ne sont pas exemptes de ce défaut. Après avoir déclaré que l'épouse doit éviter de combattre la jalousie de son mari par des paroles hautaines, l'auteur affirme: "Car plusieurs femmes sont plus fières en leurs mensonges que en parolles de vérité, et pour ce maintes foiz font plus de doubte" (chap. 17, 39.23–26).

son honneur, malgré son intervention personnelle pour empêcher que la querelle ne s'envenime (chap. 15).<sup>21</sup>

Aux femmes victimes d'un assaut verbal, le Chevalier conseille de planter là leurs interlocuteurs. Le mieux serait même d'éviter la présence de gens querelleurs.

Les chapitres qui traitent le sujet de la dispute verbale sont parmi ceux qui marquent le plus clairement la spécificité du *Livre* en tant qu'ouvrage issu de l'aristocratie et destiné à un public de jeunes filles nobles. De par leur statut social, celles-ci seront amenées à fréquenter des assemblées publiques où les occasions de se laisser aller à une altercation quelconque sont nombreuses.<sup>22</sup> Par ailleurs le Chevalier considère le *tencier* comme un critère distinctif entre les classes sociales: tout comme les chiens et les mâtins "de leur nature . . . rechignent et abbayent, [et] un gentil levrier ne le fera pas, . . . nul gentil cuer ne devoit tencier ne dire villenie. Car au tencier l'en congnoist les gentilz de avecques les villains" (chap. 96, 188.17–27).<sup>23</sup>

A part le *tencier*, quelles sont les sollicitations ou agressions verbales auxquelles les femmes peuvent se trouver exposées? Dans le *Livre*, elles sont au nombre de trois: la flatterie, le langage amoureux mensonger et la médisance.

Au chapitre 73 du *Livre*, basé sur le *Miroir* (fol. 17b–19a), on retrouve tous les critères qui, au cours des siècles, ont mené à la condamnation de la flatterie. Comme l'auteur anonyme de sa source, le Chevalier accuse les flatteurs d'être excessifs dans leur intention de plaire et d'amour du lucre; de plus ils incitent leurs victimes à l'outrecuidance. Le plus inquiétant est que les flatteurs font violence à la vérité: ils ressemblent aux "enchanteurs, qui font semblant d'un charbon que ce soit une belle chose; car ilz louent la chose par devant et plus la blasment par derrière" (150.1–3; cf. *Miroir*, fol. 18a).<sup>24</sup> Dès lors le Chevalier, lui, recommande à ses filles à "ne point

<sup>21</sup> Au chapitre 96 se trouve un récit qui ressemble fort à celui du chapitre 15: à quelques détails près, l'histoire est racontée dans des termes presque identiques, quoique plus brièvement.

<sup>22</sup> Dans *Le Menagier de Paris*, un traité écrit par un membre de la haute bourgeoisie parisienne vers 1392, l'auteur signale seulement qu'il faut s'abstenir de "prend[re] parolles a gens arrogans ou de grant courage ou gens de court ou seigneurs," car "moult de perilz [en] sont venuz" (*Le Menagier de Paris*, ed. Georgine E. Brereton and Janet M. Ferrier [Oxford, 1981], 105). Pour le reste, les disputes verbales évoquées dans cette oeuvre ne sortent pas de l'intimité conjugale.

<sup>23</sup> L'image est empruntée au seul chapitre du *Miroir* qui traite le sujet de la dispute (fol. 79a–b). La dernière phrase de la citation ("Car . . . villains") est du cru du Chevalier.

<sup>24</sup> La pensée du Chevalier (calquée sur celle de l'auteur du *Miroir*) s'inscrit ici dans la perspective de saint Augustin, qui, à plusieurs reprises, souligne le caractère mensonger et trompeur de la flatterie. Dans son *Liber de planctu naturae*, Alain de Lille, suivant la perspective augus-

croire en leurs los,” mais à “mieulz [les] cognoistre que ils ne [les] congnoissent [elles]” (150.4–7): il faut donc qu’elles percent la bulle des apparences, pour saisir l’essence, la nature de ces trompeurs.<sup>25</sup> Elles doivent aussi veiller à s’entourer de bons conseillers qui ne leur cacheront la vérité à aucun prix. Dans le récit du chapitre 94, lui aussi emprunté au *Miroir* (fol. 74b–75b), l’accent est mis sur le fait que la flatterie est un péché contre le prochain. C’est une entorse à l’amitié véritable, ce qu’expriment bien les paroles d’un empereur sur son lit de mort et à qui l’on tait la gravité de son état, l’empêchant ainsi de se préoccuper du salut de son âme: “Plus vault amy qui point que flatteur qui oint” (184.23–24). La phrase correspondante du *Miroir* donne *traitor* au lieu de *flatteur* (fol. 75a), ce qui semble confirmer que pour notre auteur, les deux termes sont équivalents. Notons que dans le *Livre* tous les flatteurs nommés sont des hommes, tandis que dans le texte du *Miroir* qui a inspiré le chapitre 73 commenté ci-dessus, les paroles fallacieuses sont prononcées par une femme.

Le motif de la tromperie au moyen du langage est repris dans les longs passages que consacre le Chevalier aux manoeuvres indignes des beaux-parleurs séducteurs. Ces *langagiers* apparaissent dès le prologue (3.3) pour personnifier les dangers du monde trompeur auquel les filles de l’auteur devront faire face. A l’opposé de ceux qui aiment d’un amour loyal, ces soupirants *faulx et decevables* (chap. 122, 244.10), tout comme les flatteurs, feignent des sentiments qu’ils n’éprouvent nullement; ils “jurent et parjurent leurs fois et sermens” (244.11–12) et par leurs folles promesses ils essaient d’amener les femmes au *fol delit* pour ensuite les abandonner, la réputation perdue. Ici encore l’accent est mis sur le décalage entre l’être et le paraître, et la véhémence et la récurrence des commentaires où l’auteur traite le sujet témoignent de sa répugnance profonde à l’égard de ceux qui appartiennent à l’univers de la fausseté.<sup>26</sup> Le meilleur moyen de couper

tinienne, décrit les flatteurs comme des personnages “qui ont tranché tout lien entre intériorité et extériorité” (Casagrande et Vecchio, *Péchés de la langue*, 254–55). La définition, et dès lors la condamnation, de la flatterie comme un éloge qui, à quelque degré que ce soit, ne respecte pas la vérité, subsistera au cours des siècles. Pour un commentaire plus détaillé ainsi que pour les références aux écrits de saint Augustin et d’Alain de Lille, voir *ibid.*

<sup>25</sup> Le terme *cognoistre* est un terme clef dans le *Livre*: constamment le Chevalier incite ses filles à distinguer le bien du mal, la sincérité de l’hypocrisie.

<sup>26</sup> Voir aussi A. M. De Gendt, “Sens et fonction du prologue dans *Le Livre du Chevalier de la Tour Landry*,” *Neuphilologische Mitteilungen* 95 (1994): 193–206, et “‘Gens qui ont le siecle à main’: Les grands de ce monde dans le *Livre du Chevalier de la Tour Landry*,” *Fifteenth-Century Studies* 21 (1994): 1–15. Le trouble de notre auteur face au “mensonge des apparences” a également frappé Danielle Régnier-Boehler, qui le mentionne dans son article “Un traité pour les filles d’Eve: L’écriture et le temps dans le *Livre du Chevalier de la Tour Landry* pour l’enseignement de ses filles,” dans *Education, Apprentissages, Initiation au Moyen Age*, Les Cahiers du C.R.I.S.I.M.A. 1 (Montpellier, novembre 1993), 449–67.

court à ces paroles captieuses est de ne pas les écouter (chapitres 39 et 40; voir aussi note 27), et surtout de ne pas y répondre (40), mais de les *rompre*, comme dit le Chevalier, en appelant éventuellement des témoins (chap. 124, 252.21–23 et 260.30–32). D'ailleurs, en règle générale, les femmes ont intérêt à s'informer toujours des conséquences possibles des propos qu'on leur tient. Le modèle inspirateur est la Vierge Marie questionnant l'ange visiteur (chap. 109).<sup>27</sup>

La médisance, fille de l'envie, fut l'un des péchés les plus redoutés et les plus durement punis dans la culture médiévale à prédominance orale, où la renommée de chacun était construite par les dires d'autrui. Non seulement celui qui proférait des paroles dénigrantes péchait, mais également celui qui les écoutait.<sup>28</sup> Ce dernier devrait en effet refuser de prêter attention et foi à tout discours détracteur. Dans les deux derniers chapitres du *Livre*, qui traitent brièvement de l'attitude à adopter face à la médisance, on retrouve l'écho de ces consignes. Mais notre auteur va plus loin: il souhaite que ses filles interviennent en faveur de ceux que l'on diffame en leur présence, à l'instar de leur grand-mère paternelle Olive de Belleville, femme vertueuse par excellence: "jamais . . . vouldist que l'en mesdeist de nulz . . . et que l'en parlast devant elle, et quant aucuns en parloient, elle les desblasmoit et disoit que, si Dieu plaist, ilz se amenderont, et que nulz ne . . . devoit juger d'autrui" (chap. 127, 276.23–29). Ajoutons que notre auteur parle des médisants au masculin: "ceulx qui le mahain et les maux parloient" (276.31), "aucuns en parloient" (276.25–26), etc.

Ceux qui guettent les faux pas d'autrui, s'en moquent et se réjouissent de pouvoir en répandre le bruit au moyen de leurs paroles nocives n'apparaissent pas seulement dans les chapitres du *Livre* que nous avons examinés. La menace que constitue la parole des *gengleurs*, ces ennemis directs et redoutables de la réputation féminine, plâne sur le *Livre* entier. D'abord les *nouvelles* qu'ils font circuler ne sont pas toujours véridiques—"les unes [sont] vraies, les aultres mençonges" (prol., 3.7–8); puis ils "y remettent du leur" et toujours "plus de mal que de bien" (chap. 124, 252.13–14). Mais le pire, c'est que le plus souvent le médisant, tel un

<sup>27</sup> L'auteur du *Miroir* prête à Marie une même méfiance à l'égard de l'ange Gabriel (fol. 98a) et, comme le fait aussi le Chevalier, il oppose l'attitude de la sainte Vierge à la complaisance avec laquelle Eve a écouté les paroles du diable. Notons que le comportement d'Eve est décrit dans le *Livre* comme dans le *Miroir*, respectivement dans les chapitres 39 et 40 et les fol. 3b–5a.

<sup>28</sup> Dans sa *Summa Praedicatorum* I, Bromyard "montre le diable rejoindre l'enfer, portant sur sa langue le médisant et dans l'oreille celui qui a écouté la médisance" (Casagrande et Vecchio, *Péchés de la langue*, 250).

*Janus bifrons* (l'image est de Neckam<sup>29</sup>), est aussi un flatteur: il loue exagérément les présents pour les frapper dans le dos dès qu'ils s'éloignent. C'est cette duplicité qui constitue le danger le plus grave et notre auteur ne cesse de le répéter. "Tel vous rit et vous fait bel devant qui par derrière s'en va bourdant," le prologue l'annonce déjà (4.5–6), et la formule resurgit (avec quelques variations), telle une incantation, à plusieurs moments importants,<sup>30</sup> et notamment dans la dernière partie du *Livre*. L'on se souviendra qu'en parlant des flatteurs, l'auteur a utilisé à-peu-près les mêmes termes.

Flatteurs, beaux-parleurs et (la plupart des) médisants: tous ont en commun leur hypocrisie, que le Chevalier abhorre. L'inquiétude de l'auteur face à la parole mensongère fait écho à l'inquiétude générale de l'époque "sur les problèmes des rapports de la vérité et du langage." Le XIV<sup>e</sup> siècle vit "un bouleversement du monde, . . . une crise radicale de la vérité" en général. Les apparences sont devenues trompeuses, la parole donnée n'est plus sacrée et le réel "ne constitue plus un lieu stable où se fonderait la vérité des signes."<sup>31</sup> Notre Chevalier n'est certes pas le seul à dénoncer cette maladie du siècle, mais il le fait d'une manière pertinente et pénétrante.

S'il est vrai que dans les grandes lignes le Chevalier de la Tour Landry confine le langage actif des femmes dans les limites traditionnelles (réserve, passivité, supériorité de la parole masculine, absence de toute dimension publique), il est tout aussi vrai qu'à la différence de la plupart des autres auteurs, il ne le critique pas avec véhémence. Tantôt il déculpabilise même quelque peu la gent féminine, en notant la responsabilité partagée dans les cas de bavardage, de malédiction et de dispute, tantôt il témoigne d'une certaine confiance en la nature féminine à travers les paroles de Cathon père et fils. Ce qui apparaît à l'examen de ce que nous avons appelé le langage passif, c'est que le langage des autres peut constituer une menace aussi importante pour la réputation d'une femme que ses propres erreurs. Dans la plupart des cas, le meilleur remède à lui opposer est de se refuser à toute écoute ou à la complaisance, une absence

<sup>29</sup> Alexander Neckam, *De naturis rerum*, chap. 180: *De adulatoribus*, ed. Thomas Wright, *Rerum Britannicarum Medii Aevi Scriptores* 34 (London, 1863), 319.

<sup>30</sup> Dont le long débat entre le Chevalier et son épouse, que nous étudions dans notre article "Plusieurs manières d'amours: Le débat dans le *Livre du Chevalier de la Tour Landry* et ses échos dans l'oeuvre de Christine de Pizan," à paraître dans *Fifteenth-Century Studies* 23 (1996).

<sup>31</sup> Pour des informations importantes sur le sujet, voir Cerquiglini, "*Un engin si subtil*," et notamment la troisième partie de l'ouvrage: "Un monde en éclats ou la crise généralisée des signes." Nos citations se rapportent respectivement aux pages 187 (n. 17), 165 et 162.

de langage en quelque sorte. Mais ce qui frappe surtout, c'est que les femmes sont souvent victimes de la parole masculine et que celle-ci est, elle-même, loin d'être irréprochable, parce que querelleuse, médisante ou fourbe.

Il est clair que la manière dont l'usage du langage est traité dans le *Livre* dépasse, et de loin, le niveau d'une série de prescriptions ou d'interdictions imposées à la parole féminine. Pour notre auteur le langage est un élément beaucoup plus important et donc l'un des motifs clefs de son *Livre*. Ce motif, présent dès le prologue, traverse l'ouvrage comme un fil rouge, pour retrouver une place privilégiée dans les chapitres finaux, et marque l'originalité du *Livre* par rapport à sa source principale, le *Miroir des Bonnes Femmes*.<sup>32</sup> Comme ceux qui, un siècle plus tôt, se sont acharnés à analyser les péchés de la langue, le Chevalier considère le langage comme un facteur clef dans la vie sociale et il reconnaît pleinement les dangers potentiels de ce qui peut être une arme puissante à manier avec circonspection:

Et aussy comme la sayette part de l'arc cordé, et, quand elle est partie, il convient qu'elle preingne son bruit, ne jamais ne reviendra à la corde jusques à tant qu'elle ait feru quelle chose que ce soit, tout aussy est-il de la parole qui ist de la bouche, car puis qu'elle en est yssue elle n'y puet rentrer qu'elle ne soyt ouye et entendue, soit bien, soit mal (chap. 128, 289.11-18).

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<sup>32</sup> Comme nous l'avons vu, la plupart des passages du *Livre* qui révèlent la perception originale du discours féminin (et de l'usage de la parole en général), n'ont pas de correspondant dans le *Miroir*. Quant aux idées de l'auteur déjà en germe dans son modèle, elles sont développées, voire amplifiées parce que reprises dans des chapitres qui ne se basent pas sur le *Miroir*.



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